## PROPOSED AGENDA

## Meeting of the Town of Biltmore Forest Board of Commissioners

### To be held Tuesday, December 14, 2021 at 4:30 p.m.

## MEETING HELD IN PERSON IN ACCORDANCE WITH CDC AND STATE GUIDELINES

## ZOOM LINK AVAILABLE ON REAR OF AGENDA FOR THOSE WISHING TO PARTICIPATE REMOTELY

A. Roll Call by the Clerk

Mayor George F. Goosmann, III Commissioner Fran G. Cogburn Commissioner E. Glenn Kelly Commissioner Doris P. Loomis

- B. The minutes of the November 9, 2021 meeting will be presented for approval.
- C. Reports of Officers
  - 1. Chief of Skyland Fire and Rescue
  - 2. Chief of Police Chris Beddingfield
  - 3. Public Works Director Harry Buckner
  - 4. Town Manager Jonathan Kanipe
- D. Proclamation for Rachel Kuehn
- E. New Business
  - 1. Consideration of Re-Appointment to MSD Board for Commissioner E. Glenn Kelly
  - 2. Town Code of Ordinances Review Public Safety Amendments prior to January 2022 Consideration of Adoption
  - 3. Consideration of FY22 Budget Amendment
- F. Petitions
  - 1. Petition regarding "No Trespassing" Signs
  - 2. Petition regarding Amendment to Zoning Ordinance for Fences
- G. Public Comment
- H. Adjourn

### December 14, 2021 Zoom Meeting Information

Town of Biltmore Forest is inviting you to a scheduled Zoom meeting.

Topic: December Board of Commissioners Meeting Time: Dec 14, 2021 04:30 PM Eastern Time (US and Canada)

Join Zoom Meeting https://us02web.zoom.us/j/84098856802?pwd=Uk5XMytZQURsUUovVEJGYlVocy9Od z09

Meeting ID: 840 9885 6802 Passcode: 471346 One tap mobile +16468769923,,84098856802#,,,,\*471346# US (New York) +13017158592,,84098856802#,,,,\*471346# US (Washington DC)

Dial by your location

+1 646 876 9923 US (New York) +1 301 715 8592 US (Washington DC) +1 312 626 6799 US (Chicago) +1 408 638 0968 US (San Jose) +1 669 900 6833 US (San Jose) +1 253 215 8782 US (Tacoma) +1 346 248 7799 US (Houston) Meeting ID: 840 9885 6802 Passcode: 471346 Find your local number: https://us02web.zoom.us/u/kcy5xtSCNQ

## MINUTES OF THE MEETING OF THE MAYOR AND THE TOWN COMMISSIONERS OF BILTMORE FOREST HELD NOVEMBER 9, 2021.

Be it remembered by those that follow these proceedings that the Governing Board of the Town of Biltmore Forest met and conducted the following business:

Roll call taken by the Clerk:

Mayor George F. Goosmann, III, present Commissioner Doris P. Loomis, present Commissioner E. Glenn Kelly, present Commissioner Fran Cogburn, present

Mr. Jonathan Kanipe, the Town Manager, and Mr. William Clarke, the Town Attorney, were also present.

Mayor Goosmann called the meeting to order at 4:30 pm.

Commissioner Kelly made a motion to approve the minutes from October 12, 2021. The motion was seconded by Commissioner Cogburn and unanimously approved.

Chief Trevor Lance gave the report for the Skyland Fire Department. There were 32 calls for the month. Chief Lance also said to have furnaces and air filters checked, as well as chimneys inspected and cleaned. Commissioner Kelly asked about the process for how they are selling the ambulances. Chief Lance said they are not getting rid of the EMS system, they are transitioning to the future of EMS being part of the fire service. They will be called Community Risk Coordinators and will be responding to emergency calls as they normally would. They will also be going out to the public and doing one on one care with the public for those that need medical assistance. They will also be doing prevention and going to rest homes. Mayor Goosmann thanked the Fire Department for all their hard work.

Chief Chris Beddingfield gave the report for the Police Department. Chief Beddingfield noted the police report will look different now due to the transition to the new CAD system. For instance, a typical call volume previously showed 700-800 calls per month,. The new CAD system will condense several of these and it will now look like 500-600 calls per month because it is categorized differently.

Chief Beddingfield said there was a call in the Ramble inside the subdivision, which is the County's jurisdiction. Chief said he was very proud of officers helping out the County with this call. Someone entered the home at night without permission while the homeowners were sleeping. The suspect was caught.

Chief Beddingfield congratulated Officer Kenny Merritt on receiving his Advanced Certificate. Chief Beddingfield said Officer Merritt is very diligent with his educational training. Officer Merritt is also in the process of completing his Bachelor's degree. The advanced certificate also helps the Town's insurance rates as well. Officer Merritt is a very diligent and hardworking officer who has achieved the steps needed to further his education.

Mr. Harry Buckner gave the report for the Public Works Department. The department has transitioned fully into leaf collection and are staying on top of it very well. There was a storm drain repaired at 14 Eastwood Road. A sink hole developed in the original 1920s inlet and collapsed the pipe. It was dug out and repaired by public works staff and they all did a great job.

The tree service also came in and took some trees down on rights of way and parks. Most of these trees were dead. Staff has also been working on street light maintenance.

Mr. Buckner said Christmas decorations will be put up the week after Thanksgiving to prepare for the tree lighting event.

Commissioner Loomis asked Mr. Buckner what the ribbons are around trees near the intersection of Hemlock Road and Cedar Hill Drive. Mr. Buckner said they are survey markers to

help the stream restoration and stabilization designers. These do not represent trees that will be removed, but rather, are all marked for various reasons.

Commissioner Cogburn asked if trees taken down are mulched by public works. Mr. Buckner said they are not mulched here in the Town. The Town pays to dispose of all the brush at Riverside Stump Dump. Mayor Goosmann thanked Mr. Buckner for all their hard work.

Mr. Jonathan Kanipe gave the monthly report for the Town. The Town remains aligned with Buncombe County's current face covering requirement for indoor, public places. The current order expires Friday, November 26, 2021. All Town facilities remain open to the public and face coverings are required for all who enter the buildings and attend meetings. We continue to host meetings in-person and remotely, via Zoom, for those who are unable to attend in person.

Mr. Kanipe discussed the Comprehensive Plan and Transportation Study. The surveys should be available by end of the week. It is already live but the link will be put out on the website soon. A mailing will also be sent out next week. Mr. Paul Zimmerman has created the survey and should be available by the end of this week. The Planning Commission did a great job of going through the survey.

The trash can project will be included on the front page of the newsletter and offering an opportunity for residents to choose from two sizes. Sample containers will also be available at Town Hall if residents want to come look at the containers. This information will also be posted on the website and in a CodeRed message.

Mr. Kanipe discussed the update of the targeted underground project. Phase 2 of Duke Energy's targeted underground project is well underway with right-of-way acquisition ongoing. The last report showed 80 percent right-of-way acquired for this portion, and then Duke anticipates moving to right of way acquisition for Phase 3. Phase 2 includes a portion of work to be conducted at Carolina Day School.

Mr. Kanipe said Friday, December 3<sup>rd</sup> is the tree lighting event. It will mostly be held outside.

Mayor Goosmann asked how many phases there are for the Duke project. Mr. Kanipe indicated that he believed there are six phases.

Mr. Kanipe discussed the consideration of Resolution 2021-14 - A Resolution to award stream restoration contract contingent upon Local Government Commission and DWI approval. Mr. Kanipe reviewed the stream restoration project and the belief that the Town's debt request should be on the Local Government Commission's December agenda. Baker Grading and Landscaping will be awarded the project. They were the responsible, low bidder. They would like to start the project after the New Year.

Commissioner Loomis made a motion to approve the Resolution. Commissioner Cogburn seconded the motion. The motion was approved unanimously.

The Town Code of Ordinances were discussed and reviewing potential public safety amendments. Mr. Kanipe said Chief Chris Beddingfield has identified two areas related to public safety that may be enhanced with amendments to the Town Code of Ordinances. Specifically, these two additions would be located within Chapter 92 "Health and Safety" of the Town Code. The proposed ordinances provide clear regulations for what is allowable, or not allowable, within each circumstance. These regulations are routinely found in other town and county public safety codes of ordinances.

The loitering and temporary structure ordinance specifies that people may not congregate in a manner to block traffic (vehicular or pedestrian), obstruct the entrances to buildings, or establish a temporary tent or other structure for illegally camping on public or private property without prior approval. The structure of the ordinance provides for the manner in which the Police Department may ask the individual to stop performing this action and then take further action if necessary. Chief Beddingfield said there have been a few situations where people have come in from the Parkway and set up a tent. There have been issues with vagrancy where people go onto Town property and set up camp. This is why public enforcement is needed.

The public urination and defecation prohibition ordinance is straightforward, but makes clear that urination or defecation occurring inappropriately is a misdemeanor violation. Previously, the Police Department has to rely upon trespass or littering portions of the General Statutes in order to prohibit or respond to similar actions. This will allow us the ability to take further action in this type of situation.

Mr. Kanipe asked if there was any objection to either of these. There was no objection.

Mr. Kanipe then began a discussion of Senate Bill 300 and the decriminalization of local ordinances. This was signed into law in September 2021 by Governor Cooper. This omnibus law enforcement bill includes provisions that affect the violation of city and county ordinances. In 2018, the Town and all other local governments in North Carolina were required to submit a list of all criminally enforceable Town Ordinances to staff at the North Carolina Legislature. Frayda Bluestein notes in her blog post, "for some time, under North Carolina law, violations of city and county ordinance explicitly said that they were not." The new law removes the default criminal penalty for violating local ordinances and specifies violations may be a misdemeanor or infraction under G.S. 14-4 *only* if specified within the ordinance. This portion of SB 300 is effective December 1, 2021.

The Town's existing ordinances that refer to criminal penalties typically do so the conclusion of each chapter. It is unclear whether this method will adequately qualify as being "specified within the ordinance" or whether that will need to be added within each ordinance specifically. We will continue working to determine this. In the meantime, the Legislature also amended N.C.G.S. § 14-4 to add a new subsection (c) that reads as follows:

(c) A person may not be found responsible or guilty of a local ordinance violation punishable pursuant to subsection (a) of this section if, when tried for that violation, the person produces proof of compliance with the local ordinance through any of the following: (1) No new alleged violations of the local ordinance within 30 days from the date of the initial alleged violation.

(2) The person provides proof of a good-faith effort to seek assistance to address any underlying factors related to unemployment, homelessness, mental health, or substance abuse that might relate to the person's ability to comply with the local ordinance.

Mr. Kanipe said they are going to continue to work with other local governments on restructuring town ordinances. The Town is also working with the League of Municipalities and UNC School of Government to determine how our existing penalties are enforceable in this manner. If they are not, they made need to consider a wider amendment. Mr. Billy Clarke said there are some items such as the Tree Protection where one can not impose a criminal penalty for violation of this ordinance.

Next month, Mr. Kanipe will come back with a detailed list and more information related to this new legislation.

Chief Beddingfield said an enormous amount of bills were introduced in regards to law enforcement reform. Two house bills which the Governor signed into law which are HB 436, which is a psychological evaluation for law enforcement officers. Every officer except the deputy Sheriff had to get a psychological evaluation. This has now been changed to all law enforcement is now required to get a psychological evaluation. Regarding the Town law enforcement, Biltmore Forest has already been doing this for officers.

HB 536, created a duty to intervene and report. If one officer sees another officer using too much force, or loses their temper as an example, the second officer has the responsibility to stop them from doing that and also has a duty to report it. This policy was also already implemented for Town law enforcement.

Chief Beddingfield discussed Senate Bill 300, Criminal Justice Reform. These bills align with recommendations of the Governor's Task Force for Racial Equity in Criminal Justice. This is an attempt to make our police departments more diverse. Chief Beddingfield said there is an early intervention requirement, if officers have so many use of force requirements, complaints, car accidents, etc. to meet the criteria, this would alert us that this is a problem. The Town has an

advantage being a small police department in that we are able to monitor what staff is doing and how it is being implemented.

Chief Beddingfield discussed what is known as "Brady/Giglio" which deals with the credibility of a police officer. It has been a major issue where an officer is disciplined for a truthfulness issue or improper conduct, it has to be reported. In the past, it did not have to be reported. What we have to do now, is report it to the District Attorney and report it to Criminal Justice Standards. They are creating a data base with use of force as well. Chief Beddingfield asked if anyone had questions. Mr. Kanipe thanked Chief Beddingfield for being prepared for these changes especially with responder support services and updating the police department policies quickly when he was hired.

Mr. Harry Buckner discussed the three stormwater project updates. The projects are located along Park Road, Stuyvesant Road, Vanderbilt Road, and Lone Pine Road. Another one is adjacent to Cedar Hill Road to the intersection of Hemlock Road. There is a culvert replacement between 13 & 15 Park. In January, they should be finished with the project. This is the most straightforward project.

The second project is the stream stabilization at Hemlock and Cedar Hill. Stream bank erosion is occurring parallel to Cedar Hill Drive. This project is furthest along in design. The survey was completed two weeks ago and waiting for a cost estimate. Work will occur late winter/early spring.

The largest project is a more significant analysis of overall stormwater improvements beginning at Rosebank Park, coming through the park, along Park Road and the upper portion of Vanderbilt Road, to the five way intersection near Town Hall where Lone Pine, Stuyvesant Road, and Vanderbilt Road come together. The work would move east toward Lone Pine Road continuing North to the Town Hall (which is the top of the water shed), and heading southeast on Stuyvesant Road at the crest. There are issues with flooding at the five way intersection. Survey work on the project is 80% complete.

#### Public Comment

There was no public comment.

Mayor Goosmann adjourned the meeting at 5:39 p.m. The next meeting is scheduled for Tuesday, December 14, 2021 at 4:30 pm.

ATTEST:

Ms. Laura Jacobs Town Clerk George F. Goosmann, III Mayor Biltmore Forest Police Department 355 Vanderbilt Road Biltmore Forest, NC 28803 828-274-0822 www.biltmoreforest.org



George F. Goosmann, III, Mayor Doris P Loomis, Mayor-Pro Tem E.Glenn Kelly, Commissioner FranCogburn, Commissioner Jonathan Kanipe, Town Manager M.Chris Beddingfield, Police Chief

11/01/2021- 11/30/2021

TMORE FOREST POLICE DEPARTMENT-Calls for service	Count	Percen
ABANDONED VEHICLE	1	0.21%
ALARM	19	3.94%
ANIMAL CONTROL	8	1.66%
ASSIST MOTORIST	10	2.07%
ASSIST NON-RESIDENT	2	0.41%
ASSIST OTHER AGENCY	8	1.66%
ASSIST RESIDENT	18	3.73%
BICYCLIST VIOLATION	2	0.41%
BUSINESS CHECK	212	43.98%
CHECK POINT	1	0.21%
DEPARTMENT OTHER	4	0.83%
DISTURBANCE	1	0.21%
ESCORT	2	0.41%
EXTRA PATROL	1	0.21%
FOLLOW-UP INVESTIGATION	6	1.249
FRAUD	1	0.21%
HOUSE CHECK	86	17.849
IDENTITY THEFT	2	0.419
MEDICAL EMERGENCY	2	0.419
MISSING PERSON	1	0.219
No CallType	3	0.629
NOISE COMPLAINT	1	0.21
ORDINACE VIOLATION	3	0.62
PROPERTY DAMAGE	1	0.21
RADAR OPERATION	9	1.87
ROAD BLOCKED	3	0.62
SUSPICIOUS ACTIVITY	1	0.21
SUSPICIOUS PERSON	7	1.459
SUSPICIOUS VEHICLE	14	2.90
TALK WITH OFFICER	1	0.21
TEST CALL	1	0.219
TOWN HALL BUSINESS	1	0.219
TRAFFIC CONTROL	7	1.459
TRAFFIC STOP	34	7.059
TREE DOWN	2	0.419
VEHICLE ACCIDENT	4	0.839
WELFARE CHECK	3	0.629
al Records For BILTMORE FOREST POLICE DEPARTMENT	-	lls/Total Calls 100.009

## Total Calls For Service:

482 (526 last month)

## <u>Arrests:</u>

0-Felony Arrests-

1-Misdemeanor Arrest-Driving While Impaired-Out of a traffic stop.

## Citations:

11-Citations for various traffic violations

## Time Consumption Summary:

Approximations:

**Business Checks- 4 hours** 

House Checks- 4 hours

Radar Operation- 3 hours

Vehicle Crash Investigation- 2.5 hours

## Notable Calls and Projects:

Participated in a large multi-agency traffic enforcement operation hosted by Fletcher Police Department. Received a letter of thanks from them after the fact. Saturation patrols and checking stations were conducted. 45 charges through citations and arrests were made. Fletcher PD received very positive feedback from their citizens. Our officers were exposed to various issues of operating in a large multi-agency operation. It was a great experience for them.

Two new police vehicles that we budgeted for this year have arrived. As of the writing of this report one vehicle is at the equipment installer and the other is still being processed at the dealership. My hopes would be that these vehicles are in service shortly after the first of the year.

Multiple meetings and discussions continuing on SB300. Taking guidance from NCLM and NCACP as well as meetings with all county law enforcement administrators and other law enforcement agencies across the state. We are still working to make sure all of these mandates are taken care of.

Successfully completed a DCI audit in the communication center. We passed with excellent marks so our Lead Communicator Aslyne Tate should be commended as much effort went into this.

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George F. Goosmann, III, Mayor Doris P. Loomis, Mayor-Pro Tem E. Glenn Kelly, Commissioner Fran G. Cogburn, Commissioner

> Jonathan B. Kanipe, Town Manager

## MEMORANDUM

To: Jonathan Kanipe, Town Manager

Mayor and Board of Commissioners

From: Harry B. Buckner, PE, Director of Public Works

Re: Public Works Department November 2021 Monthly Report

Date: December 9, 2021

## **Recurring Activities:**

The Public Works Department has completed the following activities during the month of November:

- Collected 36.56 tons of garbage.
- Diverted 15.58 tons of recycled goods from garbage.
- Picked up 23 loads of mixed brush and leaves (approximately 690 cubic yards) and 39 loads of leaves (1,170 cubic yards) over 17 days.
- Responded to 48 total utility locate requests, comprised of 29 new requests, 14 updates, and 1 cancellation. This total includes 1 emergency request, 2 rush requests, and 1 short-notice request.
- Visited 2 residences for Tree Assessments, approving the removal of 2 trees, and requiring the installation of 4 trees.
- Completed daily chlorine residual tests across town and passed the required two bacteriological tests. Results are reported via the State's on-line reporting system.
- I completed the Town's required quarterly Disinfection Byproduct testing in November. One (1) of the four samples did exceed the allowable limit by 0.001 mg/L. I am in contact with the North Carolina Public Water Supply Section to plan for appropriate follow-up.
- Used the Beacon/Badger Meter automated meter reading system to monitor for water leaks daily and informed residents of suspected leaks.
- We continue to perform litter pick-ups as needed, focusing on the entrances.

• Dedicated and continuous leaf collection began on November 1<sup>st</sup> and will continue until January 15<sup>th</sup>. Formal brush collection will be suspended until that time to allow us to focus on leaf collection.

## Coronavirus (COVID-19) Related Activities:

• Mask requirements and social distancing protocols continue at the Public Works facility, and they do remain open to the public.

## **Miscellaneous Activities in November**

- Our department wishes to express our gratitude to the Board for the generous holiday bonuses and the upcoming employee luncheon.
- We had one employee turn in their resignation in the month of November, and we have another employee on limited duty.
- In response to the employee resignation, we advertised for a new full-time Public Services Worker position on November 30<sup>th</sup> on Indeed and on the Town's website. A total of three applicants have responded so far. Mr. Dale and I are evaluating the applicants and anticipate the posting remaining open into the New Year.
- Most "extra" manpower hours have been dedicated to leaf collection.
- Staff completed a deep clean on the existing shop area, and we purged a great deal of outdated and unneeded materials from the storage building.
- We completed a small planting plan for the front of Town Hall and presented it to the Friends of Biltmore Forest committee for feedback.
- I met with Duke Energy-Progress to discuss plans for modernizing our power feeders to the Town's streetlights. This included receiving engineered drawings of new metered connections from our consultant to bring the installations up to code and to improve the overall safety of the systems, and providing convenience outlets at each location.
- Prepared the area at the intersection of Parkway and Stuyvesant for the relocation of the street light and installation of cameras.
- Repaired four (4) street lights.
- We delineated several large mulch beds in Rosebank Park and in Brookside Park at the pond. We completed an initial filling of the proposed mulch areas with leaves, and are continuing to assess the best method of finishing them. It seems the placement of mulched leaves works better than whole leaves as they tend to stay in place better in the wind. Ultimately, the beds will be capped with hardwood mulch.
- Work continued in Lower Vanderbilt Park removing invasive species and dead or diseased plant materials.
- Staff completed Christmas decoration installation ahead of the tree lighting ceremony.
- Lighting upgrades were completed in the Police Department kitchen area. Additional lighting upgrades for the rest of the building are continuing.

- The second salt and sand truck has been returned and placed back into service.
- The back-up garbage truck is still at the shop awaiting completion of repairs to the hydraulic system and transmission/PTO. A new hydraulic tank is ordered and the mechanic is awaiting delivery.
- Supervisor Dale and I have been assisting Town Hall staff with documenting resident selections for new garbage cans. This is anticipated to continue through the selection period which will conclude on December 13.
- Replaced one malfunctioning water meter.

## Larger/Capital Projects Updates

## Greenwood Park Stream Restoration

• LGC approval to award was granted on December 8<sup>th</sup>; we are working with our consultant to execute the Notice of Award. Construction is anticipated to begin in January. A separate agenda item for this topic in the Manager's report.

## Automatic Water Meter Reading System Endpoint Replacement Program

• We are still awaiting delivery of the replacement materials from the vendor. Work will begin upon receipt.

## Cedar Hill Road Stream Stabilization Project

- We received the first draft of the proposed stream stabilization alignment on November 19<sup>th</sup>, and we met with Jennings Environmental on November 29<sup>th</sup> to review the plan Some adjustments to the initial layout are currently being implemented.
- It is planned to stake the proposed alignment in the field in December and to meet with the property owner in early January to review the second iteration of the plan.
- Upon finalization of the conceptual design, work will begin on the final design and permitting activities. It is anticipated that the design and permitting phase of the project will be completed in spring, allowing us to pursue informal bids. Construction is anticipated to be completed by the end of the 2022, pending Board approval.

## Town-wide Traffic Study

• The Traffic Survey was released to the public on November 17<sup>th</sup> and responses are continuing to come in. We held a project update with the consultant, JM Teague Engineering and Planning, on November 30, 2021.

## Master Plan Project Area 2 – 13/15 Park Rd. Culvert Replacement

- The field work for this project is completed, and we received a draft copy of the proposed plans on December 8<sup>th</sup>.
- A site visit to review the plans is scheduled for December 15<sup>th</sup>. I anticipate soliciting an informal bid for the work in early January.

## Master Plan Project Area 1 & Area 9 – Vanderbilt/Stuyvesant/Lone Pine Stormwater Project

- McGill Associates submitted a detailed work schedule for this project, which includes the following milestones:
  - The field survey is complete.
  - A preliminary horizontal alignment plan is scheduled for completion by December 14<sup>th</sup>; with a review/progress field visit meeting scheduled for the week of December 20<sup>th</sup>.
  - The 30% review plans are scheduled to be delivered the week of January 17<sup>th</sup>, and revisions completed by February 4<sup>th</sup>.
  - Cost estimates and phasing recommendations, along with the final 30% design drawings, are scheduled to be presented at the March board meeting, as directed by the Board.

## Upcoming in December

- Regular mowing activities have stopped for the season.
- Dedicated leaf collection will continue continuously until January 15, 2022.
- We will be relocating the streetlight to the intersection of Parkway and Stuyvesant.
- We still have two (2) street lights that need repair this month.
- We anticipate completing our new employee training and adding him to our on-call rotation by the end of the month.
- The new employee search will continue.
- We will be moving forward with the installation of new power supply devices to feed our street lights and future camera systems to stay ahead of the Phase 2 TUG project by Duke Energy-Progress. I am meeting with qualified electrical contractors to pull the necessary permits for this work and scheduling the actual work.
- Storm drain repairs between 105 and 111 Stuyvesant Road are still in the works.
- I am scheduling the installation of the cart grabbers on the garbage trucks, to be completed in the first quarter of 2022.
- I am in contact with the Public Water Supply Section to verify follow-up steps that are required for compliance with our disinfection byproduct testing requirements.
- We will continue to improve the multiple large mulch beds at the Brookside Park pond area and at Rosebank Park. We will continue mulching these with ground leaves and possibly installing mulch this month, depending on weather and leaf collection efforts.
- We are prepared, should we be needed, to react to any winter weather events.

On behalf of Supervisor Dale and all of our valued department team members, we want to extend our sincere wishes to each of you for a very Merry Christmas and blessed New Year. As always, please do not hesitate to contact me with any questions or feedback.

## BOARD OF COMMISSIONERS MEETING STAFF MEMORANDUM December 14, 2021

Agenda Item C-4

Town Manager's Monthly Report



Covid-19 Update

The Town remains aligned with Buncombe County's current face covering requirement for indoor, public places. The current order expires January 5, 2022. The most recent county update (December 7, 2021) revealed a positivity rate of 6.6 percent. You may recall that the goal is to be under 5 percent and the County did achieve this briefly in early November.

### Greenwood Park Stream Restoration Project

The Town's stream restoration project in Greenwood Park is one-step closer to construction in January. We received approval at the Local Government Commission's (LGC) hearing on December 7<sup>th</sup> and subsequently alerted the Division of Water Infrastructure (DWI) to this approval. As you recall, the Town approved a contingent award to Baker Construction last month. It is possible additional acknowledgments or formal approvals for the Board prior to construction beginning, and I will brief the Board on these if that is the case. The Town is now eligible to begin receiving reimbursements for initial engineering and design work.

### Fiscal Year 2021 Audit

The Town's Fiscal Year 2021 audit was completed and sent to the LGC at the end of November. The audit turned out well and the LGC has already signed off on the FY21 financial statements. A copy of the audit in its entirety has been provided to all Board members and a representative from Carter, P.C. will attend the Board's January meeting to provide a full report.

### Senate Bill 300 Review and Implementation

As discussed last month, the state legislature made changes throughout the General Statutes related to criminal penalties for town or county ordinance violations. Chief Beddingfield and I attended a webinar hosted by the NC League of Municipalities and gained some clarity regarding parts of this law. The Town <u>will</u> need to amend its ordinances that specify criminal penalties for each specific ordinance – "catch-all" penalty provisions at the conclusion of each chapter are no longer viable. We will begin reviewing these ordinances over the next month to provide the Board with a recommendation for what ordinances to continue enforcing criminally and what may need to be changed to civil penalties only. As noted in later agenda items, town ordinances that include criminal penalty provisions require readings at two meetings. Adoption may not occur for these types of ordinances at the first meeting in which it is introduced.

### Comprehensive Plan Update

The Town began conducting our comprehensive planning survey in mid-November and the survey closed on December 10, 2021. As of Wednesday, December 8<sup>th</sup>, over 150 survey responses had been received. The Town provided notices to the public via CodeRED initially, followed up with a newsletter insert, and a subsequent CodeRED reminding people to take the survey before it closed. The Town's website also included a pop-up upon each visit to the main page that asked individuals to take the survey and directed them to the appropriate site. The Planning Commission will hold their next meeting on Tuesday, December 21, 2021 where Mr. Paul Zimmerman will provide an update and analysis of these surveys. I will provide an update to the Board at our next meeting in January.

### Transportation Study Update

The Town's transportation study also closed on Friday, December 10<sup>th</sup>. We sent announcements in the same manner listed above and received over 100 responses as of December 1, 2021. The Town's consultant will prepare an analysis of these responses as part of the overall transportation plan and present this to the Board in the coming months.

### Trash Can Project Update

The Town provided notice in the most recent newsletter regarding the roll-out trash container project. We asked residents to stop by the Town Hall and review the 65 or 95 gallon sizes offered by the Town. Thus far, 45 residents have elected the 65-gallon container. We will order containers by the first of the New Year and anticipate 10-12 weeks delivery timeline. Staff will put the cans together, deliver them, and remove the existing containers from each residence on a rolling basis once available.

07/01/2021 To 11/30/2021

Account		Budget (\$)	Current Period (\$)	YTD With Encumbrance (\$)	Encumbrance (\$)	Remaining Balance (\$)	% Usec
3010 Ad Valorem Tax				(+)			
Revenue							
3010 Ad Valorem Tax							
	VALOREM TAXES (PROPERTY)	2,835,096.00	2,925,955.67	2,925,955.67	0.00	-90,859.67	10;
	VALOREM TAXES (DMV)	104,332.00	27,710.87	27,710.87	0.00	76.621.13	2
	INTEREST & PENALTIES	10,000.00	530.73	530.73	0.00	9,469.27	_
10 0010 0200 1100	3010 Ad Valorem Tax Subtotal	\$2,949,428.00	\$2,954,197.27	\$2,954,197.27	\$0.00	-\$4,769.27	10
	Revenue Subtotal	\$2,949,428.00	\$2,954,197.27	\$2,954,197.27	\$0.00	-\$4.769.27	100
After Transfers	Excess Of Revenue Subtotal	\$2,949,428.00	\$2,954,197.27	\$2,954,197.27	\$0.00	• .,. ••.=.	10
3020 Unrestricted Interg		¥2,343,420.00	Ψ <b>2,00</b> 4,101.21	¢2,004,107.27	<b>\$0.00</b>		10
Revenue	overnin						
3020 Unrestricted Inter 10-3020-0000 FRA	NCHISE & UTILITIES TAX DIST.	205.227.00	45,273.60	45,273.60	0.00	159,953.40	22
	COHOL BEVERAGE TAX	6,000.00	40,270.00	-0,275.00	0.00	6,000.00	(
	ICOMBE COUNTY 1% TAX	540,724.00	285,276.09	285.276.09	0.00	255,447.91	5
	CENT SALES TAX A.40	227,111.00	119,582.78	119,582.78	0.00	107,528.22	5
	CENT SALES TAX A.40	282,736.00	151.048.69	151,048.69	0.00	131.687.31	5
10-3020-0400 1/2 (		10,000.00	0.00	0.00	0.00	10,000.00	(
	SOLINE TAX REFUND	3,500.00	0.00	0.00	0.00	3,500.00	(
		,				,	
302	20 Unrestricted Intergovernm Subtotal	\$1,275,298.00	\$601,181.16	\$601,181.16	\$0.00	\$674,116.84	47
	Revenue Subtotal	\$1,275,298.00	\$601,181.16	\$601,181.16	\$0.00	\$674,116.84	47
After Transfers	Excess Of Revenue Subtotal	\$1,275,298.00	\$601,181.16	\$601,181.16	\$0.00		47
3030 Restricted Intergov	vernmen						
Revenue							
3030 Restricted Intergo							
	ID WASTE DISPOSAL TAX	950.00	523.96	523.96	0.00	426.04	55
10-3030-0100 POV	VELL BILL	55,505.00	29,374.54	29,374.54	0.00	26,130.46	53
303	30 Restricted Intergovernmen Subtotal	\$56,455.00	\$29,898.50	\$29,898.50	\$0.00	\$26,556.50	53
	Revenue Subtotal	\$56,455.00	\$29,898.50	\$29,898.50	\$0.00	\$26,556.50	53
After Transfers	Excess Of Revenue Subtotal	\$56,455.00	\$29,898.50	\$29,898.50	\$0.00		53
3040 Permits & Fees							
Revenue							
3040 Permits & Fees							
10-3040-0000 BUI	LDING PERMITS	30,000.00	40,687.00	40,687.00	0.00	-10,687.00	136
10-3040-0100 DOC	G LICENSE FEE	1,300.00	30.00	30.00	0.00	1,270.00	:
	3040 Permits & Fees Subtotal	\$31,300.00	\$40,717.00	\$40,717.00	\$0.00	-\$9,417.00	130
	Revenue Subtotal	\$31,300.00	\$40,717.00	\$40,717.00	\$0.00	-\$9,417.00	130
After Transfers	Excess Of Revenue Subtotal	\$31,300.00	\$40,717.00	\$40,717.00	\$0.00		13
3050 Investment Earning	gs						
Revenue							
	ngs						
3050 Investment Earnin							
3050 Investment Earnin 10-3050-0000 INTI	EREST EARNED	1,000.00	126.13	126.13	0.00	873.87	13

07/01/2021 To 11/30/2021

FY 2021-2022

Account		Budget (\$)	Current Period (\$)	YTD With Encumbrance (\$)	Encumbrance (\$)	Remaining Balance (\$)	% Used
	Revenue Subtotal	\$1,000.00	\$126.13	\$126.13	\$0.00	\$873.87	13
After Transfers	Excess Of Revenue Subtotal	\$1,000.00	\$126.13	\$126.13	\$0.00		13
3060 Miscellaneous							
Revenue							
3060 Miscellaneous							
	ERICAN TOWER AGREEMENT	38,000.00	2,000.00	2,000.00	0.00	36,000.00	5
10-3060-0200 MIS		10,000.00	28,614.72	28,859.75	-245.03	-18,859.75	289
	3060 Miscellaneous Subtotal	\$48,000.00	\$30,614.72	\$30,859.75	-\$245.03	\$17,140.25	64
	Revenue Subtotal	\$48,000.00	\$30,614.72	\$30,859.75	-\$245.03	\$17,140.25	64
After Transfers	Excess Of Revenue Subtotal	\$48,000.00	\$30,614.72	\$30,614.72	-\$245.03	. ,	64
3290		<i>Q</i> -10,000100	¢00,014112	\$00,01411 <u>2</u>	\$240.00		
Revenue 3290							
30-3290-0000 INT	EREST EARNED	50.00	3.29	3.29	0.00	46.71	7
	3290 Subtotal	\$50.00	\$3.29	\$3.29	\$0.00	\$46.71	. 7
	Revenue Subtotal	\$50.00	\$3.29	\$3.29	\$0.00	\$46.71	. 7
After Transfers	Excess Of Revenue Subtotal	\$50.00	\$3.29	\$3.29	\$0.00	•••••	. 7
		<b>\$50.00</b>	<i>\$</i> 3.23	<b>43.2</b> 3	\$0.00		,
3350 Commissions, Sw	Chg Coll						
Revenue							
3350 Commissions, Sv	-	8 000 00	2 260 80	2 260 80	0.00	4 720 20	44
	MMISSIONS, SEWER CHARGE COLL	8,000.00	3,269.80	3,269.80	0.00	4,730.20	41
335	0 Commissions, Sw Chg Coll Subtotal	\$8,000.00	\$3,269.80	\$3,269.80	\$0.00	\$4,730.20	41
	Revenue Subtotal	\$8,000.00	\$3,269.80	\$3,269.80	\$0.00	\$4,730.20	41
After Transfers	Excess Of Revenue Subtotal	\$8,000.00	\$3,269.80	\$3,269.80	\$0.00		41
3500 Other Financing							
Other Financing Source							
3500 Other Financing							
	E OF PERSONAL PROPERTY	15,000.00	0.00	0.00	0.00	15,000.00	0
10-3500-0700 INT	ERGOVERNMENTAL LOAN (RESTRIC	300,000.00	0.00	0.00	0.00	300,000.00	0
	3500 Other Financing Subtotal	\$315,000.00	\$0.00	\$0.00	\$0.00	\$315,000.00	0
	Other Financing Source Subtotal	\$315,000.00	\$0.00	\$0.00	\$0.00	\$315,000.00	0
After Transfers	Deficiency Of Revenue Subtotal	\$315,000.00	\$0.00	\$0.00	\$0.00		0
3710 Water Sales							
Revenue							
3710 Water Sales							
30-3710-0000 WA	TER CHARGES	442,800.00	103,211.30	103,211.30	0.00	339,588.70	23
30-3710-0100 MSI	D CHARGES	338,789.00	119,650.51	119,650.51	0.00	219,138.49	35
30-3710-0200 AMI	TRANSMITTER CHARGES	7,700.00	2,755.44	2,755.44	0.00	4,944.56	36
	3710 Water Sales Subtotal	\$789,289.00	\$225,617.25	\$225,617.25	\$0.00	\$563,671.75	29
	Revenue Subtotal	\$789,289.00	\$225,617.25	\$225,617.25	\$0.00	\$563,671.75	29
After Transfers	Excess Of Revenue Subtotal	\$789,289.00	\$225,617.25	\$225,617.25	\$0.00		29
3730 Water Tap & Conne	ect Fees						

#### JONATHAN

fl-RevenueAndExpenditurePortrait

07/01/2021 To 11/30/2021

Account		Budget (\$)	Current Period (\$)	YTD With Encumbrance (\$)	Encumbrance (\$)	Remaining Balance (\$)	% Used
				(\$)	(*)	Dulunce (\u0)	
3730 Water Tap & Conner 30-3730-0000 WATE	R TAP AND CONNECTION FEES	6,000.00	390.00	390.00	0.00	5,610.00	7
	Water Tap & Connect Fees Subtotal	\$6,000.00	\$390.00	\$390.00	\$0.00	\$5,610.00	. 7
5750	Revenue Subtotal	\$6,000.00	\$390.00	\$390.00	\$0.00	\$5,610.00	. 7
After Transfers	Excess Of Revenue Subtotal	\$6,000.00	\$390.00	\$390.00	\$0.00	<i><b>v</b></i> ,	7
	Excess of Revenue Subiotal	φ0,000.00	4550.00	\$550.00	ψ0.00		'
000							
Revenue							
4000 40-4000-1100 ARP E	DISTRIBUTION	451,275.58	225,637.79	225,637.79	0.00	225,637.79	50
40 4000 1100 7111 2	4000 Subtotal	\$451,275.58	\$225,637.79	\$225,637.79	\$0.00	\$225,637.79	50
	Revenue Subtotal	\$451,275.58	\$225,637.79	\$225,637.79	\$0.00	\$225,637.79	50
A# T				•		Ψ223,031.13	
After Transfers	Excess Of Revenue Subtotal	\$451,275.58	\$225,637.79	\$225,637.79	\$0.00		50
200 Administration							
Expenditure							
4200 Administration		044 500 00	04 440 44	04 440 44	0.00	400 000 50	40
10-4200-0200 SALA		214,530.00	91,446.44	91,446.44	0.00	123,083.56	43
10-4200-0300 OVER	IIME	5,000.00	85.14	85.14	0.00	4,914.86	2
10-4200-0500 FICA		16,794.00	6,126.94	6,126.94	0.00	10,667.06	36
		28,502.00	9,662.00	9,662.00	0.00	18,840.00	34
	AL, VISION, LIFE INSURANCE	4,470.00	1,929.46	1,929.46	0.00	2,540.54	43
	TH REIMBUSEMENT ACC	3,750.00	1,562.50	1,562.50	0.00	2,187.50	42
10-4200-0700 LGER		39,581.00	14,897.91	14,897.91	0.00	24,683.09	38
		10,976.00	4,482.43	4,482.43	0.00	6,493.57	41
10-4200-1000 ACCC		45,000.00	22,687.49	22,687.49	0.00	22,312.51	50
	AGE, PRINTING, STATIONARY	6,000.00	3,255.41	4,040.67	785.26	1,959.33	67
	AGE & BOARD SALARY	22,000.00	9,000.00	9,000.00	0.00	13,000.00	41
	LIES AND EQUIPMENT	8,750.00	3,322.87	3,322.87	0.00	5,427.13	38
10-4200-5300 DUES		5,000.00	5,645.50	6,210.50	565.00	-1,210.50	124
10-4200-5700 MISCI		1,000.00	2,964.50	2,964.50	0.00	-1,964.50	296
10-4200-6500 STAFI	DEVELOPMENT	16,000.00	4,558.84	5,701.39	1,142.55	10,298.61	36
	4200 Administration Subtotal	\$427,353.00	\$181,627.43	\$184,120.24	\$2,492.81	\$243,232.76	43
	Expenditure Subtotal	\$427,353.00	\$181,627.43	\$184,120.24	\$2,492.81	\$243,232.76	43
Before Transfers	Deficiency Of Revenue Subtotal	-\$427,353.00	-\$181,627.43	-\$181,627.43	-\$2,492.81		43
After Transfers	Deficiency Of Revenue Subtotal	-\$427,353.00	-\$181,627.43	-\$181,627.43	-\$2,492.81		43
300							
Expenditure							
4300							
	4300 Subtotal	\$0.00	\$0.00	\$64.11	\$64.11	-\$64.11	0
	Expenditure Subtotal	\$0.00	\$0.00	\$64.11	\$64.11	-\$64.11	0
Before Transfers	Deficiency Of Revenue Subtotal	\$0.00	\$0.00	\$0.00	-\$64.11		0
After Transfers	Deficiency Of Revenue Subtotal	\$0.00	\$0.00	\$0.00	-\$64.11		C

07/01/2021 To 11/30/2021

			Current	YTD With Encumbrance	Encumbrance	Remaining	
Account		Budget (\$)	Period (\$)	(\$)	(\$)	Balance (\$)	% Used
5100 Police Depa	rtment						
10-5100-0200		908,986.00	400,473.62	400,473.62	0.00	508,512.38	44
10-5100-0300	OVERTIME	26,000.00	15,630.51	15,630.51	0.00	10,369.49	60
	SEPARATION ALLOWANCE	30,617.00	12,953.49	12,953.49	0.00	17,663.51	42
10-5100-0500		71,526.00	29,356.20	29,356.20	0.00	42,169.80	4
	HEALTH INSURANCE (MEDICAL)	148,416.00	61,661.60	61,661.60	0.00	86,754.40	4:
	DENTAL, VISION, LIFE INSURANCE	18,892.00	8,280.80	8,280.80	0.00	10,611.20	4
		25,500.00	10,625.00	10,625.00	0.00	14,875.00	4
		168,681.00	70,116.53	70,116.53	0.00	98,564.47	4
	401K SUPP RETIREMENT	45,474.00	20,338.00	20,338.00	0.00	25,136.00	4
10-5100-1500	MAINT/REPAIR - BLDG/GROUNDS	20,000.00	3,475.33	8,260.44	4,785.11	11,739.56	4
10-5100-1600	MAINT/REPAIR - EQUIPMENT	2,000.00	0.00	84.00	84.00	1,916.00	
10-5100-1700	MAINT/REPAIR - VEHICLES	12,000.00	851.70	3,604.78	2,753.08	8,395.22	3
10-5100-3100	MOTOR FUELS	13,000.00	6,303.51	6,303.51	0.00	6,696.49	4
10-5100-3300	SUPPLIES	10,000.00	2,543.60	2,543.60	0.00	7,456.40	2
10-5100-3600	UNIFORMS	7,500.00	3,229.89	7,012.00	3,782.11	488.00	9
10-5100-3700	SOFTWARE	50,000.00	45,328.90	56,209.89	10,880.99	-6,209.89	11
10-5100-3800	TECHNOLOGY	60,000.00	33,490.81	36,728.23	3,237.42	23,271.77	6
10-5100-5700	MISCELLANEOUS	7,500.00	7,646.21	7,730.21	84.00	-230.21	10
10-5100-5800	PHYSICAL EXAMS	5,000.00	760.00	2,087.90	1,327.90	2,912.10	4
	STAFF DEVELOPMENT	10,000.00	8,065.81	9,221.41	1,155.60	778.59	9
	CAPITAL EQUIPMENT PURCHASES	125,000.00	20,407.40	107,181.16	86,773.76	17,818.84	8
10 0100 1100		\$1,766,092.00	\$761,538.91	\$876,402.88	\$114,863.97	\$889,689.12	5
	5100 Police Department Subtotal Expenditure Subtotal			\$876,402.88	\$114,863.97	\$889,689.12	5
Defere Treesfore	•	\$1,766,092.00	\$761,538.91			\$005,005.12	
Before Transfers	Deficiency Of Revenue Subtotal	-\$1,766,092.00	-\$761,538.91	-\$761,538.91	-\$114,863.97		4
After Transfers	Deficiency Of Revenue Subtotal	-\$1,766,092.00	-\$761,538.91	-\$761,538.91	-\$114,863.97		4
200 Fire Services							
xpenditure							
5200 Fire Services	5						
10-5200-0000	FIRE CONTRACT	425,000.00	212,500.00	212,500.00	0.00	212,500.00	5
	5200 Fire Services Subtotal	\$425,000.00	\$212,500.00	\$212,500.00	\$0.00	\$212,500.00	5
	Expenditure Subtotal	\$425,000.00	\$212,500.00	\$212,500.00	\$0.00	\$212,500.00	5
Before Transfers	Deficiency Of Revenue Subtotal	-\$425,000.00	-\$212,500.00	-\$212,500.00	\$0.00		5
After Transfers	Deficiency Of Revenue Subtotal	-\$425,000.00	-\$212,500.00	-\$212,500.00	\$0.00		5
				<b>+</b> ,			
600 Public Works							
xpenditure							
10 5600 O200		220 707 00	98,363.93	98,363.93	0.00	141 242 07	
10-5600-0200		239,707.00	·	,	0.00	141,343.07	4
10-5600-0300		15,000.00	0.00	0.00	0.00	15,000.00	
10-5600-0500		19,485.00	6,714.88	6,714.88	0.00	12,770.12	3
10-5600-0550	UNEMPLOYMENT INSURANCE	500.00	0.00	0.00	0.00	500.00	
10-5600-0600	HOSPITAL INSURANCE (MEDICAL)	46,872.00	14,883.82	14,883.82	0.00	31,988.18	3
			1,771.46	1,771.46	0.00		2

07/01/2021 To 11/30/2021

Account		Budget (\$)	Current Period (\$)	YTD With Encumbrance	Encumbrance (\$)	Remaining Balance (\$)	% Used
	HRA HEALTH REIMB ACCT	9,000.00	2,625.00	(\$) 2,625.00	(*)	6,375.00	29
	LGERS RETIREMENT	9,000.00 45,924.00	15.913.11	2,025.00	0.00	30,010.89	29
	401K SUPP RETIREMENT	,	- ,	,	0.00	,	36
		12,735.00	4,607.65	4,607.65		8,127.35	
		10,000.00	0.00	0.00	0.00	10,000.00	0
		7,000.00	963.72	963.72	0.00	6,036.28	14
	MAINT/REPAIR - BLDG/GROUNDS	10,000.00	1,191.68	1,191.68	0.00	8,808.32	12
	MAINT/REPAIR- STREETLIGHTS	10,000.00	309.25	526.25	217.00	9,473.75	5
	MAINT/REPAIR - VEHICLES	10,000.00	1,247.65	1,947.80	700.15	8,052.20	19
	MOTOR FUELS	12,000.00	5,042.79	5,042.79	0.00	6,957.21	42
10-5600-3300		10,000.00	1,307.91	1,839.09	531.18	8,160.91	18
10-5600-3400	STREET SIGNS & NUMBERS	1,000.00	179.88	424.91	245.03	575.09	42
10-5600-3600	UNIFORMS	8,000.00	995.12	7,308.88	6,313.76	691.12	91
10-5600-3800	TECHNOLOGY	10,000.00	3,371.48	3,671.07	299.59	6,328.93	37
10-5600-5200	PARKS	50,000.00	1,051.13	3,592.59	2,541.46	46,407.41	7
10-5600-5202	GREENWOOD PARK STREAM RESTORA	300,000.00	7,500.00	7,500.00	0.00	292,500.00	3
10-5600-5800	PHYSICAL EXAMS	500.00	0.00	0.00	0.00	500.00	0
10-5600-5900	MISCELLANEOUS	1,000.00	562.23	963.48	401.25	36.52	96
10-5600-6500	STAFF DEVELOPMENT	8,000.00	853.36	853.36	0.00	7,146.64	11
40-5600-7401	ARP CAPITAL PROJECTS	451,275.58	0.00	0.00	0.00	451,275.58	0
	5600 Public Works Subtotal	\$1,294,737.58	\$169,456.05	\$180,705.47	\$11,249.42	\$1,114,032.11	14
	Expenditure Subtotal	\$1,294,737.58	\$169,456.05	\$180,705.47	\$11,249.42	\$1,114,032.11	14
Before Transfers	Deficiency Of Revenue Subtotal	-\$1,294,737.58	-\$169,456.05	-\$169,456.05	-\$11,249.42		13
After Transfers	Deficiency Of Revenue Subtotal	-\$1,294,737.58	-\$169,456.05	-\$169,456.05	-\$11,249.42		13
700 Streets & Tran	isportation						
xpenditure							
5700 Streets & Tra	ansportation						
10-5700-1700	VEHICLE REPAIRS - STREET DEPT.	5,000.00	692.64	1,013.64	204.00		20
				.,	321.00	3,986.36	20
10-5700-2200	CONTRACTS- PAVING & STRIPING	77,907.00	0.00	0.00	0.00	3,986.36 77,907.00	
10-5700-2200 10-5700-2300		77,907.00 10,000.00	0.00 3,010.54				0
10-5700-2300				0.00	0.00	77,907.00	0 46
10-5700-2300 10-5700-2400	SUPPLIES	10,000.00	3,010.54	0.00 4,612.79	0.00 1,602.25	77,907.00 5,387.21	0 46 0
10-5700-2300 10-5700-2400 10-5700-2500	SUPPLIES TRAFFIC SIGNS	10,000.00 500.00	3,010.54 0.00	0.00 4,612.79 0.00	0.00 1,602.25 0.00	77,907.00 5,387.21 500.00	0 46 0 3
10-5700-2300 10-5700-2400 10-5700-2500 10-5700-3800	SUPPLIES TRAFFIC SIGNS STORM WATER DRAINAGE	10,000.00 500.00 100,000.00	3,010.54 0.00 2,831.95	0.00 4,612.79 0.00 3,062.00	0.00 1,602.25 0.00 230.05	77,907.00 5,387.21 500.00 96,938.00	0 46 0 3 46
10-5700-2300 10-5700-2400 10-5700-2500 10-5700-3800 10-5700-6500	SUPPLIES TRAFFIC SIGNS STORM WATER DRAINAGE TECHNOLOGY	10,000.00 500.00 100,000.00 5,000.00	3,010.54 0.00 2,831.95 2,283.89	0.00 4,612.79 0.00 3,062.00 2,283.89	0.00 1,602.25 0.00 230.05 0.00	77,907.00 5,387.21 500.00 96,938.00 2,716.11	0 46 0 3 46 4
10-5700-2300 10-5700-2400 10-5700-2500 10-5700-3800 10-5700-6500 10-5700-7400	SUPPLIES TRAFFIC SIGNS STORM WATER DRAINAGE TECHNOLOGY STAFF DEVELOPMENT	10,000.00 500.00 100,000.00 5,000.00 1,000.00	3,010.54 0.00 2,831.95 2,283.89 38.38	0.00 4,612.79 0.00 3,062.00 2,283.89 38.38	0.00 1,602.25 0.00 230.05 0.00 0.00	77,907.00 5,387.21 500.00 96,938.00 2,716.11 961.62	20 0 46 0 3 46 4 4 7
10-5700-2300 10-5700-2400 10-5700-2500 10-5700-3800 10-5700-6500 10-5700-7400	SUPPLIES TRAFFIC SIGNS STORM WATER DRAINAGE TECHNOLOGY STAFF DEVELOPMENT CAPITAL EQUIPMENT PURCHASES ENGINEERING	$\begin{array}{c} 10,000.00\\ 500.00\\ 100,000.00\\ 5,000.00\\ 1,000.00\\ 5,000.00\\ 75,000.00\end{array}$	3,010.54 0.00 2,831.95 2,283.89 38.38 199.95 4,932.95	0.00 4,612.79 0.00 3,062.00 2,283.89 38.38 199.95	0.00 1,602.25 0.00 230.05 0.00 0.00 0.00 0.00	77,907.00 5,387.21 500.00 96,938.00 2,716.11 961.62 4,800.05 70,067.05	0 46 0 3 46 4 4 4 7
10-5700-2300 10-5700-2400 10-5700-2500 10-5700-3800 10-5700-6500 10-5700-7400	SUPPLIES TRAFFIC SIGNS STORM WATER DRAINAGE TECHNOLOGY STAFF DEVELOPMENT CAPITAL EQUIPMENT PURCHASES	10,000.00 500.00 100,000.00 5,000.00 1,000.00 5,000.00	3,010.54 0.00 2,831.95 2,283.89 38.38 199.95	0.00 4,612.79 0.00 3,062.00 2,283.89 38.38 199.95 4,932.95	0.00 1,602.25 0.00 230.05 0.00 0.00 0.00	77,907.00 5,387.21 500.00 96,938.00 2,716.11 961.62 4,800.05	0 46 0 3 46 4 4 4 7 7 6
10-5700-2300 10-5700-2400 10-5700-2500 10-5700-3800 10-5700-6500 10-5700-7400	SUPPLIES TRAFFIC SIGNS STORM WATER DRAINAGE TECHNOLOGY STAFF DEVELOPMENT CAPITAL EQUIPMENT PURCHASES ENGINEERING 5700 Streets & Transportation Subtotal	10,000.00 500.00 100,000.00 5,000.00 5,000.00 75,000.00 <b>\$279,407.00</b>	3,010.54 0.00 2,831.95 2,283.89 38.38 199.95 4,932.95 <b>\$13,990.30</b>	0.00 4,612.79 0.00 3,062.00 2,283.89 38.38 199.95 4,932.95 <b>\$16,143.60</b>	0.00 1,602.25 0.00 230.05 0.00 0.00 0.00 0.00 \$2,153.30	77,907.00 5,387.21 500.00 96,938.00 2,716.11 961.62 4,800.05 70,067.05 <b>\$263,263.40</b>	C 46 C 3 46 4 4 7 7 6 6
10-5700-2300 10-5700-2400 10-5700-2500 10-5700-3800 10-5700-6500 10-5700-7400 10-5700-7500	SUPPLIES TRAFFIC SIGNS STORM WATER DRAINAGE TECHNOLOGY STAFF DEVELOPMENT CAPITAL EQUIPMENT PURCHASES ENGINEERING 5700 Streets & Transportation Subtotal Expenditure Subtotal	10,000.00 500.00 100,000.00 5,000.00 5,000.00 75,000.00 <b>\$279,407.00</b>	3,010.54 0.00 2,831.95 2,283.89 38.38 199.95 4,932.95 \$13,990.30 \$13,990.30	0.00 4,612.79 0.00 3,062.00 2,283.89 38.38 199.95 4,932.95 \$16,143.60 \$16,143.60	0.00 1,602.25 0.00 230.05 0.00 0.00 0.00 \$2,153.30 \$2,153.30	77,907.00 5,387.21 500.00 96,938.00 2,716.11 961.62 4,800.05 70,067.05 <b>\$263,263.40</b>	C 46 C 3 46 4 4 4 4 7 7 6 6 6 6 5
10-5700-2300 10-5700-2400 10-5700-2500 10-5700-3800 10-5700-6500 10-5700-7400 10-5700-7500 Before Transfers After Transfers	SUPPLIES TRAFFIC SIGNS STORM WATER DRAINAGE TECHNOLOGY STAFF DEVELOPMENT CAPITAL EQUIPMENT PURCHASES ENGINEERING 5700 Streets & Transportation Subtotal Expenditure Subtotal Deficiency Of Revenue Subtotal	10,000.00 500.00 100,000.00 5,000.00 5,000.00 75,000.00 \$279,407.00 \$279,407.00	3,010.54 0.00 2,831.95 2,283.89 38.38 199.95 4,932.95 \$13,990.30 \$13,990.30	0.00 4,612.79 0.00 3,062.00 2,283.89 38.38 199.95 4,932.95 \$16,143.60 \$16,143.60 \$16,143.60	0.00 1,602.25 0.00 230.05 0.00 0.00 0.00 \$2,153.30 \$2,153.30	77,907.00 5,387.21 500.00 96,938.00 2,716.11 961.62 4,800.05 70,067.05 <b>\$263,263.40</b>	0 46 0 3 46 4 4 4 7 6 6 6 6 5
10-5700-2300 10-5700-2400 10-5700-2500 10-5700-3800 10-5700-6500 10-5700-7400 10-5700-7500 Before Transfers	SUPPLIES TRAFFIC SIGNS STORM WATER DRAINAGE TECHNOLOGY STAFF DEVELOPMENT CAPITAL EQUIPMENT PURCHASES ENGINEERING 5700 Streets & Transportation Subtotal Expenditure Subtotal Deficiency Of Revenue Subtotal	10,000.00 500.00 100,000.00 5,000.00 5,000.00 75,000.00 \$279,407.00 \$279,407.00	3,010.54 0.00 2,831.95 2,283.89 38.38 199.95 4,932.95 \$13,990.30 \$13,990.30	0.00 4,612.79 0.00 3,062.00 2,283.89 38.38 199.95 4,932.95 \$16,143.60 \$16,143.60 \$16,143.60	0.00 1,602.25 0.00 230.05 0.00 0.00 0.00 \$2,153.30 \$2,153.30	77,907.00 5,387.21 500.00 96,938.00 2,716.11 961.62 4,800.05 70,067.05 <b>\$263,263.40</b>	0 46 0 3 46 4 4
10-5700-2300 10-5700-2400 10-5700-2500 10-5700-3800 10-5700-6500 10-5700-7400 10-5700-7500 Before Transfers After Transfers 5800 Sanitation & F	SUPPLIES TRAFFIC SIGNS STORM WATER DRAINAGE TECHNOLOGY STAFF DEVELOPMENT CAPITAL EQUIPMENT PURCHASES ENGINEERING 5700 Streets & Transportation Subtotal Expenditure Subtotal Deficiency Of Revenue Subtotal Recycling	10,000.00 500.00 100,000.00 5,000.00 5,000.00 75,000.00 \$279,407.00 \$279,407.00	3,010.54 0.00 2,831.95 2,283.89 38.38 199.95 4,932.95 \$13,990.30 \$13,990.30	0.00 4,612.79 0.00 3,062.00 2,283.89 38.38 199.95 4,932.95 \$16,143.60 \$16,143.60 \$16,143.60	0.00 1,602.25 0.00 230.05 0.00 0.00 0.00 \$2,153.30 \$2,153.30	77,907.00 5,387.21 500.00 96,938.00 2,716.11 961.62 4,800.05 70,067.05 <b>\$263,263.40</b>	0 46 0 3 46 4 4 4 7 6 6 6 5

07/01/2021 To 11/30/2021

			Current	YTD With Encumbrance	Encumbrance	Remaining	
Account		Budget (\$)	Period (\$)	(\$)	(\$)	Balance (\$)	% Use
10-5800-0300	) OVERTIME	10,000.00	286.10	286.10	0.00	9,713.90	:
10-5800-0500	) FICA	10,071.00	3,588.18	3,588.18	0.00	6,482.82	3
10-5800-0600	) HEALTH INSURANCE (MEDICAL)	34,400.00	8,579.40	8,579.40	0.00	25,820.60	2
10-5800-0650	DENTAL, VISION, LIFE INSURANCE	4,170.00	814.96	814.96	0.00	3,355.04	2
10-5800-0675	6 HRA HEALTH REIMB ACCT	4,500.00	1,875.00	1,875.00	0.00	2,625.00	4
10-5800-0700	LGERS RETIREMENT	23,735.00	8,470.59	8,470.59	0.00	15,264.41	3
10-5800-0800	401K SUPP RETIREMENT	6,582.00	2,538.49	2,538.49	0.00	4,043.51	3
10-5800-1700	) MAINT/REPAIRS - VEHICLES	13,000.00	11,097.13	17,562.25	6,465.12	-4,562.25	13
10-5800-3100	MOTOR FUELS	12,000.00	6,575.97	6,575.97	0.00	5,424.03	5
10-5800-3300	) SUPPLIES	0.00	202.45	202.45	0.00	-202.45	
10-5800-3600	UNIFORMS	1,000.00	543.02	543.02	0.00	456.98	5
10-5800-3800	) TECHNOLOGY	1,000.00	229.93	229.93	0.00	770.07	2
10-5800-5800	PHYSICAL EXAMS	500.00	0.00	0.00	0.00	500.00	
10-5800-5900	MISCELLANEOUS	1,000.00	531.64	531.64	0.00	468.36	Ę
10-5800-6000	) CAPITAL OUTLAY	55,000.00	0.00	0.00	0.00	55,000.00	
10-5800-8000	) TIPPING FEES & BRUSH REMOVAL	50,000.00	19,014.56	19,014.56	0.00	30,985.44	3
10-5800-8100	RECYCLING	12,000.00	0.00	0.00	0.00	12,000.00	
	5800 Sanitation & Recycling Subtotal	\$360,600.00	\$114,065.14	\$120,530.26	\$6,465.12	\$240,069.74	;
	Expenditure Subtotal	\$360,600.00	\$114,065.14	\$120,530.26	\$6,465.12	\$240,069.74	:
					• • • • • • • •		
efore Transfers	Deficiency Of Revenue Subtotal	-\$360,600.00	-\$114,065.14	-\$114,065.14	-\$6,465.12		•
efore Transfers	Deficiency Of Revenue Subtotal Deficiency Of Revenue Subtotal	-\$360,600.00 -\$360,600.00	-\$114,065.14 -\$114,065.14	-\$114,065.14 -\$114,065.14	-\$6,465.12 -\$6,465.12		
	Deficiency Of Revenue Subtotal			-			:
ter Transfers	Deficiency Of Revenue Subtotal			-			
iter Transfers 00 General Gove	Deficiency Of Revenue Subtotal			-			
iter Transfers 00 General Gove oenditure 600 General Gov	Deficiency Of Revenue Subtotal			-		24,853.63	:
iter Transfers 00 General Gove penditure 500 General Gov 10-6600-0401	Deficiency Of Revenue Subtotal	-\$360,600.00	-\$114,065.14	-\$114,065.14	-\$6,465.12	24,853.63 64,667.65	:
iter Transfers 00 General Gove penditure 600 General Gov 10-6600-0401 10-6600-1100	Deficiency Of Revenue Subtotal ernment vernment LEGAL SERVICES TECHNOLOGY	-\$360,600.00 35,000.00 95,000.00	-\$114,065.14 10,146.37 30,332.35	- <b>\$114,065.14</b> 10,146.37 30,332.35	- <b>\$6,465.12</b> 0.00	64,667.65	:
ter Transfers 00 General Gove penditure 600 General Gov 10-6600-0401 10-6600-1100 10-6600-1300	Deficiency Of Revenue Subtotal  rmment  LEGAL SERVICES  TECHNOLOGY MUNICIPAL UTILITIES	-\$360,600.00 35,000.00 95,000.00 20,000.00	-\$114,065.14 10,146.37 30,332.35 6,180.01	-\$114,065.14 10,146.37 30,332.35 6,180.01	-\$6,465.12 0.00 0.00 0.00	64,667.65 13,819.99	:
ter Transfers 00 General Gove conditure 500 General Gov 10-6600-0401 10-6600-1100 10-6600-1300 10-6600-1500	Deficiency Of Revenue Subtotal  rmment  LEGAL SERVICES  DIECHNOLOGY  MUNICIPAL UTILITIES  GE. REPS. AND MAINT.	-\$360,600.00 35,000.00 95,000.00 20,000.00 25,000.00	-\$114,065.14 10,146.37 30,332.35 6,180.01 14,713.50	-\$114,065.14 10,146.37 30,332.35 6,180.01 15,256.17	-\$6,465.12 0.00 0.00 0.00 542.67	64,667.65 13,819.99 9,743.83	:
ter Transfers 0 General Gove 500 General Gove 10-6600-0401 10-6600-1100 10-6600-1500 10-6600-5400	Deficiency Of Revenue Subtotal  rement  rement  LEGAL SERVICES  ECHNOLOGY  MUNICIPAL UTILITIES  GE. REPS. AND MAINT.  INSURANCE	-\$360,600.00 35,000.00 95,000.00 20,000.00 25,000.00 90,000.00	-\$114,065.14 10,146.37 30,332.35 6,180.01 14,713.50 80,377.27	-\$114,065.14 10,146.37 30,332.35 6,180.01 15,256.17 80,377.27	-\$6,465.12 0.00 0.00 0.00 542.67 0.00	64,667.65 13,819.99 9,743.83 9,622.73	:
ter Transfers 00 General Gove conditure 600 General Gov 10-6600-0401 10-6600-1300 10-6600-1300 10-6600-5400 10-6600-5400 10-6600-6000	Deficiency Of Revenue Subtotal  Termment  LEGAL SERVICES  ECHNOLOGY  MUNICIPAL UTILITIES  GE. REPS. AND MAINT.  INSURANCE CONTINGENCY	-\$360,600.00 35,000.00 95,000.00 20,000.00 25,000.00 90,000.00 48,931.00	-\$114,065.14 10,146.37 30,332.35 6,180.01 14,713.50 80,377.27 0.00	-\$114,065.14 10,146.37 30,332.35 6,180.01 15,256.17 80,377.27 0.00	-\$6,465.12 0.00 0.00 542.67 0.00 0.00	64,667.65 13,819.99 9,743.83 9,622.73 48,931.00	:
ter Transfers 0 General Gove conditure 500 General Gov 10-6600-0401 10-6600-1100 10-6600-1500 10-6600-5400 10-6600-6000 10-6600-6100	Deficiency Of Revenue Subtotal  Ternment  Ternment  LEGAL SERVICES  DECHNOLOGY  MUNICIPAL UTILITIES  GE. REPS. AND MAINT.  INSURANCE CONTINGENCY MISCELLANEOUS	-\$360,600.00 35,000.00 95,000.00 20,000.00 25,000.00 90,000.00 48,931.00 5,000.00	-\$114,065.14 10,146.37 30,332.35 6,180.01 14,713.50 80,377.27 0.00 1,009.15	-\$114,065.14 10,146.37 30,332.35 6,180.01 15,256.17 80,377.27 0.00 1,009.15	-\$6,465.12 0.00 0.00 0.00 542.67 0.00 0.00 0.00	64,667.65 13,819.99 9,743.83 9,622.73 48,931.00 3,990.85	: : : : : : : : : : : : : : : :
ter Transfers 0 General Gove 500 General Gove 10-6600-0401 10-6600-1100 10-6600-1500 10-6600-5400 10-6600-6400 10-6600-6100 10-6600-6301	Deficiency Of Revenue Subtotal  Ternment  Vernment  LEGAL SERVICES  DECHNOLOGY  MUNICIPAL UTILITIES  GE. REPS. AND MAINT.  INSURANCE CONTINGENCY MISCELLANEOUS ATH OF JULY	-\$360,600.00 35,000.00 95,000.00 20,000.00 25,000.00 90,000.00 48,931.00 5,000.00 7,500.00	-\$114,065.14 10,146.37 30,332.35 6,180.01 14,713.50 80,377.27 0.00 1,009.15 5,675.45	-\$114,065.14 10,146.37 30,332.35 6,180.01 15,256.17 80,377.27 0.00 1,009.15 6,786.54	-\$6,465.12 0.00 0.00 0.00 542.67 0.00 0.00 0.00 1,111.09	64,667.65 13,819.99 9,743.83 9,622.73 48,931.00 3,990.85 713.46	
ter Transfers D General Gove conditure 600 General Gov 10-6600-0401 10-6600-1100 10-6600-1300 10-6600-5400 10-6600-6400 10-6600-6400 10-6600-6302 10-6600-6302	Deficiency Of Revenue Subtotal  Termment  Termment  LEGAL SERVICES  DECHNOLOGY  MUNICIPAL UTILITIES  GE. REPS. AND MAINT.  INSURANCE  CONTINGENCY  MISCELLANEOUS  4TH OF JULY  NATIONAL NIGHT OUT	-\$360,600.00 35,000.00 95,000.00 20,000.00 25,000.00 90,000.00 48,931.00 5,000.00 7,500.00 2,000.00	-\$114,065.14 10,146.37 30,332.35 6,180.01 14,713.50 80,377.27 0.00 1,009.15 5,675.45 3,327.90	-\$114,065.14 10,146.37 30,332.35 6,180.01 15,256.17 80,377.27 0.00 1,009.15 6,786.54 3,465.67	-\$6,465.12 0.00 0.00 0.00 542.67 0.00 0.00 0.00 1,111.09 137.77	64,667.65 13,819.99 9,743.83 9,622.73 48,931.00 3,990.85 713.46 -1,465.67	:
ter Transfers 0 General Gove 500 General Gove 10-6600-0401 10-6600-1100 10-6600-1500 10-6600-5400 10-6600-6100 10-6600-6100 10-6600-6302 10-6600-6302	Deficiency Of Revenue Subtotal  Ternment  Ternment  Ternment  LEGAL SERVICES  DEFINITION  DUNICIPAL UTILITIES  DEFINITION  DEFINITIO	-\$360,600.00 35,000.00 95,000.00 20,000.00 25,000.00 90,000.00 48,931.00 5,000.00 7,500.00 2,000.00 14,000.00	-\$114,065.14 10,146.37 30,332.35 6,180.01 14,713.50 80,377.27 0.00 1,009.15 5,675.45 3,327.90 0.00	-\$114,065.14 10,146.37 30,332.35 6,180.01 15,256.17 80,377.27 0.00 1,009.15 6,786.54 3,465.67 0.00	-\$6,465.12 0.00 0.00 0.00 542.67 0.00 0.00 0.00 1,111.09 137.77 0.00	64,667.65 13,819.99 9,743.83 9,622.73 48,931.00 3,990.85 713.46 -1,465.67 14,000.00	:
Iter Transfers           00 General Gove           00 General Gove           600 General Gove           10-6600-0401           10-6600-1100           10-6600-1500           10-6600-5400           10-6600-6301           10-6600-6302           10-6600-6302           10-6600-6302           10-6600-6302           10-6600-6302           10-6600-6302	Deficiency Of Revenue Subtotal  Permment  Permment	-\$360,600.00 35,000.00 95,000.00 20,000.00 25,000.00 90,000.00 48,931.00 5,000.00 7,500.00 2,000.00 14,000.00 2,000.00	-\$114,065.14 10,146.37 30,332.35 6,180.01 14,713.50 80,377.27 0.00 1,009.15 5,675.45 3,327.90 0.00 0.00	-\$114,065.14 10,146.37 30,332.35 6,180.01 15,256.17 80,377.27 0.00 1,009.15 6,786.54 3,465.67 0.00 0.00	-\$6,465.12 0.00 0.00 0.00 542.67 0.00 0.00 1,111.09 137.77 0.00 0.00	64,667.65 13,819.99 9,743.83 9,622.73 48,931.00 3,990.85 713.46 -1,465.67 14,000.00 2,000.00	: ; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ;
ter Transfers D General Gove penditure 600 General Gov 10-6600-0401 10-6600-1100 10-6600-1300 10-6600-5400 10-6600-6400 10-6600-6302 10-6600-6302 10-6600-6302 10-6600-6302 10-6600-6302 10-6600-6302	Deficiency Of Revenue Subtotal  Terment  Terment  LEGAL SERVICES  LEGAL SERVICES  MUNICIPAL UTILITIES  GE. REPS. AND MAINT.  MUNICIPAL UTILITIES  GE. REPS. AND MAINT.  MISURANCE  MISURANCE  MISCELLANEOUS  ATH OF JULY  ATHONAL NIGHT OUT  ATHONAL NIGHT OUT  ARBOR DAY EVENT  WILDLIFE MANAGEMENT	-\$360,600.00 35,000.00 95,000.00 20,000.00 25,000.00 90,000.00 48,931.00 5,000.00 7,500.00 2,000.00 14,000.00 1,000.00	-\$114,065.14 10,146.37 30,332.35 6,180.01 14,713.50 80,377.27 0.00 1,009.15 5,675.45 3,327.90 0.00 0.00 0.00 165.92	-\$114,065.14 10,146.37 30,332.35 6,180.01 15,256.17 80,377.27 0.00 1,009.15 6,786.54 3,465.67 0.00 0.00 658.12	-\$6,465.12 0.00 0.00 0.00 542.67 0.00 0.00 1,111.09 137.77 0.00 0.00 492.20	64,667.65 13,819.99 9,743.83 9,622.73 48,931.00 3,990.85 713.46 -1,465.67 14,000.00 2,000.00 341.88	; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ;
ter Transfers D General Gove penditure 600 General Gov 10-6600-0401 10-6600-1100 10-6600-1300 10-6600-5400 10-6600-6400 10-6600-6302 10-6600-6302 10-6600-6302 10-6600-6302 10-6600-6302 10-6600-6302	Deficiency Of Revenue Subtotal Perment Perment LEGAL SERVICES DECHNOLOGY DUNICIPAL UTILITIES DEG. REPS. AND MAINT. DEG. REPS. REPS	-\$360,600.00 35,000.00 95,000.00 20,000.00 25,000.00 90,000.00 48,931.00 5,000.00 7,500.00 7,500.00 14,000.00 14,000.00 1,000.00	-\$114,065.14 10,146.37 30,332.35 6,180.01 14,713.50 80,377.27 0.00 1,009.15 5,675.45 3,327.90 0.00 0.00 0.00 165.92 12,150.00	-\$114,065.14 10,146.37 30,332.35 6,180.01 15,256.17 80,377.27 0.00 1,009.15 6,786.54 3,465.67 0.00 0.00 658.12 16,550.00	-\$6,465.12 0.00 0.00 0.00 542.67 0.00 0.00 1,111.09 137.77 0.00 0.00 492.20 4,400.00	64,667.65 13,819.99 9,743.83 9,622.73 48,931.00 3,990.85 713.46 -1,465.67 14,000.00 2,000.00 341.88 43,450.00	: ; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ;
ter Transfers D General Gove penditure 600 General Gov 10-6600-0401 10-6600-1100 10-6600-1300 10-6600-5400 10-6600-6400 10-6600-6302 10-6600-6302 10-6600-6302 10-6600-6302 10-6600-6302 10-6600-6302	Deficiency Of Revenue Subtotal  Perment  Perment Perm	-\$360,600.00 35,000.00 95,000.00 20,000.00 25,000.00 48,931.00 5,000.00 7,500.00 7,500.00 2,000.00 14,000.00 1,000.00 60,000.00	-\$114,065.14 10,146.37 30,332.35 6,180.01 14,713.50 80,377.27 0.00 1,009.15 5,675.45 3,327.90 0.00 0.00 165.92 12,150.00 \$164,077.92	-\$114,065.14 10,146.37 30,332.35 6,180.01 15,256.17 80,377.27 0.00 1,009.15 6,786.54 3,465.67 0.00 658.12 16,550.00 \$171,095.11	-\$6,465.12 0.00 0.00 0.00 542.67 0.00 0.00 1,111.09 137.77 0.00 0.00 492.20 4,400.00 \$7,017.19	64,667.65 13,819.99 9,743.83 9,622.73 48,931.00 3,990.85 713.46 -1,465.67 14,000.00 2,000.00 341.88 43,450.00 <b>\$234,335.89</b>	
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#### 07/01/2021 To 11/30/2021

Account		Budget (\$)	Current Period (\$)	YTD With Encumbrance	Encumbrance (\$)	Remaining Balance (\$)	% Used
			renou (ψ)	(\$)	(4)	Dalance (4)	// 0000
6700 Debt Service	ce Dept Renovations-Principal	23,334.00	11,666.66	11,666.66	0.00	11,667.34	50
	et Improvements-Principal	6.667.00	3,333.34	3,333.34	0.00	3,333.66	50
	lic Works Building-Principal	84,211.00	42,458.79	42,458.79	0.00	41,752.21	50
	0 POLICE CARS-PRINCIPAL	28,327.00	56,654.00	56,654.00	0.00	-28,327.00	200
	ce Dept Renovations-Interest	2,334.00	1,277.94	1,277.94	0.00	1,056.06	55
	eet Improvements-Interest	667.00	365.12	365.12	0.00	301.88	55
	•		10,257.00	10,257.00	0.00		50
	lic Works Building-Interest 0 POLICE CARS-INTEREST	20,514.00	,	,		10,257.00	
10-6700-1600 2020		1,580.00	3,157.52	3,157.52	0.00	-1,577.52	200
	6700 Debt Service Subtotal	\$167,634.00	\$129,170.37	\$129,170.37	\$0.00	\$38,463.63	77
Before Transfers	Expenditure Subtotal	\$167,634.00	\$129,170.37	\$129,170.37	\$0.00	\$38,463.63	77
	Deficiency Of Revenue Subtotal	-\$167,634.00	-\$129,170.37	-\$129,170.37			
After Transfers	Deficiency Of Revenue Subtotal	-\$167,634.00	-\$129,170.37	-\$129,170.37	\$0.00		77
100 Water Dept.							
xpenditure							
8100 Water Dept.		4.40.040.00	00 400 50			100 170 10	
30-8100-0200 SAL		142,619.00	39,439.58	39,439.58	0.00	103,179.42	28
	DFESSIONAL SERVICES	10,000.00	2,020.00	3,617.50	1,597.50	6,382.50	36
30-8100-0500 FIC/		10,910.00	3,034.43	3,034.43	0.00	7,875.57	28
30-8100-0600 HEA	ALTH INSURANCE (MEDICAL)	18,351.00	6,901.12	6,901.12	0.00	11,449.88	38
30-8100-0650 DEN	NTAL, VISION, LIFE INSURANCE	2,718.00	1,031.28	1,031.28	0.00	1,686.72	38
30-8100-0675 HRA	A HEALTH REIMBUSEMENT ACCT	2,250.00	1,187.50	1,187.50	0.00	1,062.50	53
30-8100-0700 LGE	ERS RETIREMENT	25,714.00	7,381.63	7,381.63	0.00	18,332.37	29
30-8100-0800 401	K SUPP RETIREMENT	7,131.00	2,226.29	2,226.29	0.00	4,904.71	31
30-8100-1200 POS	STAGE, PRINTING,& STATIONARY	5,000.00	394.22	871.42	477.20	4,128.58	17
30-8100-1500 GEN	NERAL REPAIRS	10,000.00	0.00	0.00	0.00	10,000.00	C
30-8100-3300 SUF	PPLIES & EQUIPMENT	15,000.00	429.74	5,807.61	5,377.87	9,192.39	39
30-8100-3800 TEC	CHNOLOGY	5,000.00	2,283.89	2,283.89	0.00	2,716.11	46
30-8100-4800 WAT	TER PURCHASES	146,066.00	77,121.46	77,121.46	0.00	68,944.54	53
30-8100-4900 SEV	VER PURCHASES	275,595.00	119,888.17	119,888.17	0.00	155,706.83	44
30-8100-5000 AMI	TRANSMITTER FEES	7,700.00	3,592.04	3,592.04	0.00	4,107.96	47
30-8100-5700 MIS	CELLANEOUS	14,284.00	0.00	0.00	0.00	14,284.00	C
30-8100-6500 STA	FF DEVELOPMENT	5,000.00	3,323.65	3,994.29	670.64	1,005.71	80
30-8100-7400 CAF	PITAL IMPROVEMENT	100,000.00	0.00	18,511.35	18,511.35	81,488.65	19
	8100 Water Dept. Subtotal	\$803,338.00	\$270,255.00	\$296,889.56	\$26,634.56	\$506,448.44	37
	Expenditure Subtotal	\$803,338.00	\$270,255.00	\$296,889.56	\$26,634.56	\$506,448.44	37
Before Transfers	Deficiency Of Revenue Subtotal	-\$803,338.00	-\$270,255.00	-\$270,255.00	-\$26,634.56		34
After Transfers	Deficiency Of Revenue Subtotal	-\$803,338.00	-\$270,255.00	-\$270,255.00	-\$26,634.56		34

# Town of Biltmore Forest Proclamation

WHEREAS, Rachel Kuehn is a junior at Wake Forest University who excels in golf and academics; and

**WHEREAS**, Rachel and her family are proud residents of the Town of Biltmore Forest and the Town and its citizens have encouraged and supported Rachel during her golf career; and

WHEREAS, Rachel has demonstrated her prowess at golf on the collegiate circuit with the following accomplishments:

- Three (3) collegiate individual titles
- 2021 ACC third place medalist
- Team leader in stroke average in 2021, with an average of 70.74 which is the lowest single-season stroke average in Wake Forest program history
- Holds the Wake Forest program record for lowest 18-hole score of 63
- Holds the fourth-lowest 54-hole score in program history of 203
- Eight (8) Top 10 finishes so far in her career
- Two-time WGCA All-American

WHEREAS, Rachel's golf excellence has been demonstrated in the amateur ranks with the following accomplishments:

- Two-time Arnold Palmer Cup Team USA selection
- 2021 U.S. Amateur medalist
- 2020 North & South Champion
- 2021 Curtis Cup Team USA selection
- 2021 Augusta National Women's Amateur selection

WHEREAS, Rachel also excels in academics at Wake Forest and was named a Scholar All-American; and

**WHEREAS**, the United States faced a team from Great Britain and Ireland in the 41<sup>st</sup> Curtis Cup at Conwy Golf Club in Conwy, Wales in August 2021; and

**WHEREAS**, Rachel defeated her Scottish opponent to secure the Cup-clinching point that completed an impressive American comeback securing the victory for the United States.

**NOW, THEREFORE**, by virtue of the authority vested in me as Mayor of the Town of Biltmore Forest, I do hereby proclaim Tuesday, December 14, 2021 as "Rachel Kuehn Day" in the Town of Biltmore Forest in honor and recognition of Rachel Kuehn's exemplary achievements in the game of golf and excellence in representing the Town of Biltmore Forest, Wake Forest University, State of North Carolina, and United States of America.

**IN WITNESS WHEREOF,** I do hereby set my hand and cause the Seal of the Town of Biltmore Forest to be affixed this the 14<sup>th</sup> day of December, 2021.

George F. Goosmann, III Mayor

## BOARD OF COMMISSIONERS MEETING STAFF MEMORANDUM December 14, 2021

Agenda Item E-1



Re-Appointment of Commissioner Glenn Kelly to MSD Board

## Background

Commissioner Glenn Kelly has served as the Town's elected representative to the Metropolitan Sewerage District (MSD) for many years. Commissioner Kelly currently serves as Vice-Chair of the MSD Board and the Chair of the Finance Committee. Commissioner Kelly's term is set to expire and re-appointment is requested.

### Action Requested

Motion, second, and vote to re-appoint Commissioner Glenn Kelly to the MSD Board.



Metropolitan Sewerage District

OF BUNCOMBE COUNTY, NORTH CAROLINA

November 17, 2021

Mr. Jonathan Kanipe, Town Manager Town of Biltmore Forest 355 Vanderbilt Road Asheville, North Carolina 28803

Dear Mr. Kanipe:

This is to remind you that the term of Glenn Kelly, a Biltmore Forest appointee to the Metropolitan Sewerage District Board, expires January, 2022.

Mr. Kelly is Vice Chairman of the Board, and Chairman of the Finance and Right of Way Committees. From January, 2021 to date, Mr. Kelly attended 8 of 8 regular Board Meetings and 4 Committee Meetings.

Accordingly, on behalf of the District Board, I am respectfully requesting that the Town of Biltmore Forest take action as may be appropriate.

Thank you for the valuable service Mr. Kelly provides to the District and its ratepayers. If I can be of assistance, please feel free to contact me at your convenience.

Sincerely,

M. Jerry VeHaun, Chairman MSD Board of Directors

MJV:pn

Cc: Glenn Kelly

~Protecting Our Natural Resources~

## BOARD OF COMMISSIONERS MEETING STAFF MEMORANDUM December 14, 2021

Agenda Item E-2



Town Code of Ordinances Review Two Public Safety Amendments with Criminal Penalties

## Background

Last month, the Board of Commissioners received an update from staff regarding the implementation of Senate Bill 300. Among other things, this bill decriminalizes local government ordinances unless the Town affirmatively specifies that each violation constitutes a criminal penalty. In addition, *new* ordinances that include a criminal penalty may not be adopted upon first review by the Board of Commissioners. These ordinances must be introduced during one board meeting and then may be considered for adoption at a subsequent meeting. The Town has two new ordinances related to public safety that meet this threshold.

### December 2021 Introduction for Two Ordinances

The two ordinances, attached to this memorandum, are related to public safety and include criminal penalties for violations. They are discussed generally below.

### Loitering and Temporary Structure Ordinance

This ordinance specifies that people may not congregate in a manner to block traffic (vehicular or pedestrian), obstruct the entrances to buildings, or establish a temporary tent or other structure for illegally camping on public or private property without prior approval. The structure of the ordinance provides for the manner in which the Police Department may ask the individual to stop performing this action and then take further action if necessary.

## Public Urination and Defecation Prohibition Ordinance

This ordinance states that urination or defecation occurring in the manner described in the ordinance is a misdemeanor violation. Previously, the Police Department has relied upon trespass or littering portions of the General Statutes in order to prohibit or respond to similar actions.

### Penalty Provisions

Each of these ordinances states that the maximum fine may exceed \$50.00 but may not exceed \$500.00. This is in compliance with the new statutory language found in N.C.G.S. 14-4.

## Town of Biltmore Forest

## Loitering and Temporary Structure Ordinance - Presented for First Review

### DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC PLACE. Any place to which the general public has access and a right of resort for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, or other place of business and also public grounds, areas or parks.

### GENERAL PROVISIONS.

(A) It shall be unlawful for any person to stand alone or congregate with other persons on any street or sidewalk or public place within the town limits with the intent to, or who shall in fact:

(1) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic, or pedestrians; or

(2) Obstruct the entrance to any business establishment without so doing for some lawful purpose, if contrary to the expressed wish of the owner, lessee, managing agent or person in control or charge of the building or premises.

(B) It shall be unlawful for any person, singly or in groups, to erect on any property, public or private, any temporary shack, shanty, tent or structure for place of temporary habitation or abode, for the purpose of living thereon and in such a manner as to create a place of camping, or temporary abode; provided, however, that this section shall have no application to any individuals or group of individual who are living in temporary quarters on the premises of another with that land owner's permission or consent, or who is engaged in the lawful and proper activities of any boy scout or girl scout organization, or auxiliary, or any other civic enterprise or project.

(C) When any person causes or commits any of the conditions in this section, a police officer or any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this section.

### PENALTY.

In accordance with N.C.G.S. 14-4, any person who violates this section shall be guilty of a Class 3 misdemeanor and shall be fined more than \$50.00 but not more than \$500.

## Town of Biltmore Forest

## Public Urination and Defecation Prohibition Ordinance - Presented for First Review

Except in designated water closets or toilet facilities, it shall be unlawful for any person to urinate or defecate on any public place, sidewalk, street, alleyway or right-of-way, or in any public building, or on private property. Having the permission of the owner or person in lawful possession of the real property shall constitute an affirmative defense to the charge of urinating or defecating on private property.

### <u>Penalty</u>

In accordance with N.C.G.S. 14-4, any person who violates this section shall be guilty of a Class 3 misdemeanor and shall be fined more than \$50.00 but not more than \$500.

## BOARD OF COMMISSIONERS MEETING STAFF MEMORANDUM December 14, 2021

Agenda Item E-3

Consideration of FY22 Budget Amendment



Background

The attached budget amendment reflects an estimate of funds received from Town residents for a voluntary "employee holiday fund". These funds will be distributed proportionately to all fulltime employees. In an effort to ensure transparency and comply with state law, the Town has reviewed these donations with experts from the UNC School of Government.

The budget amendment attached appropriately acknowledges receipt of these funds and their expenditure. According to the School of Government expert, the Board may informally direct the Town Manager to distribute funds proportionately in the manner listed above.

Please let me know if you have any questions.

### Action Requested

Approval from Board of Commissioners to accept these donations and appropriate in the above listed manner.



## FY 2021-2022 BUDGET ORDINANCE AMENDMENT

**BE IT ORDAINED** by the Governing Board of the Town of Biltmore Forest, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2022.

Section 1. To a	mend the General F	ows:			
Account #	Account Description	Original Budget Amt	Increase	Decrease	Revised Budget Amt
10-3060-0200	Miscellaneous	10,000	5,000	-	15,000
Section 2. To a	mend the General F	und Expenditures as	follows:		-
General Govern	ment				-
10-6600-6100	Miscellaneous	5,000	5,000	-	10,000

The Town Manager drafted this budget amendment and Finance Director has verified this amendment balances with the above listed revenues and expenditures.

Copies of this budget amendment shall be furnished to the Clerk, to the Governing Board, and to the Finance Officer for their direction.

Adopted this 14th day of December, 2021.

George F. Goosmann, III Mayor

## BOARD OF COMMISSIONERS MEETING STAFF MEMORANDUM December 14, 2021

Agenda Item F-1

Petition regarding "No Trespassing" Signs



**Background** 

Mr. Rich Wyde and Ms. Angela Branch, 6 Deerfield Road, have prepared a petition for the Board of Commissioners regarding the Town's existing sign ordinance. This petition is specifically related to "no trespassing" signs. Mr. Perry Bartsch, 8 Deerfield Road, has submitted information for the Board's review as well. These items are attached to this memorandum. Board of Commissioners Town of Biltmore Forest 355 Vanderbilt Rd Biltmore Forest, NC 28803

> Re: Petition to Amend Ordinance Sections 93.02-93.05 and Direct Removal of Offending No-Trespassing Signs

To the Board of Commissioners:

This petition requests that the Board of Commissioners direct the Town Manager to (1) amend Ordinance Sections 93.02-93.05 by adding no-trespassing signs in order to comply with North Carolina State law, subject to including specific criteria for their location and sizes (as described in Exhibit No. 1) and subject to applying the existing ordinance provisions to these signs, such as that they must meet the aesthetic quality standard in Section 93.02 (signs do not unreasonably interfere with aesthetic quality); and (2) direct Perry Bartsch Jr. and Joanne Bartsch to remove their four, bright red and white notrespassing signs that are located on the border between our properties after the Board amends the ordinance as described in Exhibit 1.

#### **Summary**

Perry Bartsch Jr. and Joanne Bartsch ("Bartsch") installed four, bright red and white, no-trespassing signs on the border between the properties of Bartsch and Rich Wyde and Angela Branch ("Wyde/Branch") approximately four months ago. The signs are pointed directly towards our house, and are about 44 and a half feet, 92 feet, 140 feet, and 182 feet from Deerfield Road. The signs cannot be seen from Deerfield Road. Wyde/Branch asked Jonathan Kanipe, the Town Manager, to have them removed, but no such action has been taken yet.

North Carolina State law includes a criminal statute that establishes notice, which could include placement of a no-trespassing sign, as a condition for second degree trespass and includes a standard for such notice (posted in a manner reasonably likely to come to the attention of intruders, with notice not to enter the premises) and which, as a practical matter, requires notice be provided so that the public can see it, in this case in view of the street.. The Town of Biltmore Forest (the "Town") recently amended its administrative, civil ordinance which explicitly lists permissible signage, which establishes specific standards for size, location and type of each of them, and which provides the civil remedy of prompt removal for non-compliance. This ordinance, which was amended does not include no-trespassing signs.

As a result of the omission of any no-trespassing sign provision in its ordinance, the Town is out of compliance with State law and must immediately amend its ordinance to add such a provision, including specific standards regarding the aesthetic quality of the no-trespassing signs that comply with the aesthetic standards already found within the ordinance. See Section 93.02. For example, the ordinance may require that all signs must be wood or iron with lettering painted in green and yellow. Additionally, the ordinance should also detail the requirements of the State law regarding enforceability, for example, signs must be placed close to the street or a park entrance to attract public attention and to be reasonably likely to inform potential intruders

The Town should also inform Bartsch that the existing four signs are out of compliance with the aesthetic provision of the ordinance and must be removed completely or removed and replaced with compliant signs after the Board amends the ordinance as described in Exhibit 1. Additionally, Bartsch should be informed that the current signs are not enforceable as they are now placed. If Bartsch refuses to remove the signs or replace them with compliant signs, the Town will, under Article 8, NC GS Section 160A-175, secure injunctions and abate orders to further insure compliance.

#### Background

Wyde/Branch moved to our house at 6 Deerfield Road in Biltmore Forest in October 2016. English ivy was growing from the Bartschs' property onto ours for five years, almost certainly before also. I had always planned to remove the invasive ivy but didn't have time until I retired at the end of 2020. On a Sunday in July, 2021, I, Richard Wyde, put up a string along the line that I thought was our border in order to make sure I didn't remove ivy from the Bartschs' yard. I used the survey from our house purchase and errored on the side of leaving more ivy in order to stay on our side of the property line. When Perry Bartsch Jr. came out into his yard and saw what I was doing, he started screaming profanities at me and saying "Not even one fucking inch", which I took to mean that he didn't want me to go onto his yard one inch and remove his ivy that was trespassing on our yard. I very calmly asked him to look at my survey and walk the property line together to make sure I didn't go onto his property. He kept screaming at me and said he would do a third survey (implying he had done two previously). I told him that I had no intent to enter his property or remove his ivy and that he didn't need to incur the costs for another survey because we could use mine. When he refused to talk rationally with me, I asked if his wife, Joanne, was there. He said yes, and she got up from a chair on the patio where she had been sitting during this tirade and walked the property line with me, indicating that it looked like the property line should probably be more on what I thought was their property than my line suggested.

I began to remove the ivy and leaves that had stuck in the ivy over the years. I left about 12-18 inches extra ivy on the border to make sure I didn't remove any of the Bartsch ivy. I never trespassed on the Bartsch property during this time, before this time, or afterwards. My wife and I have no intention of trespassing and have never given any indication of such an intent.

About three weeks later, Perry Bartsch Jr. had a survey done. The surveyor installed several sticks with pink ribbon on each along the border between our properties. I was at home at the time and asked the surveyor if the sticks represented the border, and he said "Yes". In fact, the one closest to the street showed that I had errored by inadvertently putting the border line too far onto my property, and the actual border gave my wife and myself about 300 square feet more land, near the street, than I thought we had.

About two weeks later, Bartsch had installed four green metal stakes, each about three feet high, spaced on the border between our properties. Then, a couple of weeks later, he installed two signs in the middle of our property border, 92 feet and 140 feet from Deerfield Road, that said PRIVATE PROPERTY; NO TRESPASSING; VIOLATORS WILL BE PROSECUTED and that were 12" x 18". The signs have bright red and white lettering and background. Then, he had two more signs installed, 44 and a half feet and 182 feet from Deerfield Road on the remaining dark green posts and smaller at 7" x 10", but saying NO TREESPASSING; THIS PROPERTY IS PROTECTED BY VIDEO SURVEILLANCE; TRESPASSERS WILL BE PROSECUTED and bright red and white again, with black lettering and a black and white camera. All four signs are pointed directly towards our house and the content of at least three of them and
probably all four cannot be seen clearly from Deerfield Road. See Exhibit No. 2 and Exhibit No. 3 for pictures of the signs.

Soon after the signage installations, I ran into Joanne Bartsch in passing and asked her to ask her husband to remove the signs. Joanne refused, indicating that this wasn't something she could or would do because she had to take care of her "mental health".

I contacted Jonathan Kanipe, the Town Manager, and asked him to come see the signs which I said should be removed. He came out on August 18, 2021 and contacted the Town Attorney, Billy Clarke, to discuss whether the signs should be removed.

Mr. Clarke told the Town first that Article 22A of the NC code, which is entitled Trespassing upon "Posted" Property to Hunt, Fish, Trap, or Remove Pine Needles/Straw, applied, but we disagreed and indicated that Article 22B, which is entitled First and Second Degree Trespass, applied because there was no hunting, fishing, or trapping on or removing pine needs from the property. Attached as Exhibit No. 4 is Article 22A and as Exhibit No. 5 Article 22B. Mr. Clarke later agreed with our analysis. We also asked for a written opinion of counsel so that we could appeal his decision if we disagreed with it.

Mr. Clarke and Mr. Kanipe again came out to the house on October 12, 2021 and saw the signs, which Mr. Clarke indicated were a nuisance at least. They also talked with Perry Bartsch Jr., who was at his home, and who, to my understanding from what Mr. Clarke and Mr. Kanipe told us, said the signs were to address his concerns about water erosion between the properties, not about trespass. As an aside, Bartsch has never mentioned any concerns regarding water erosion with us, and I fail to understand how removing invasive ivy on our property affected any erosion. Please note that Bartsch lives on the down slope of a hill and water will naturally flow in that direction regardless.

Coincidentally, on that same day, we had our landscapers plant six rhododendron bushes in the area cleared of the Bartsch ivy. While they were planting the bushes, Perry Bartsch Jr. came out and yelled at two of the workers that, if they damaged one of the roots of his trees (the rhododendrons were planted several feet to the inside of our property), there would be a lawsuit. The two workers ignored Perry Bartsch Jr.'s yelling and continued to plant each bush on our property, including all of their branches. Bartsch then brought out a bench onto his yard next to our property, sat on it for the rest of the time the workers were in our yard, and watched them working.

Subsequently, we got a draft opinion from the Town with which we disagreed. We then continued talking with Mr. Kanipe and Mr. Clarke, and we prepared a memorandum with our analysis for a further discussion. We had a telephone conference call with Mr. Kanipe and Mr. Clarke on Tuesday, November 23, 2021 about our memorandum. Mr. Clarke did not fully accept our analysis, so Wyde/Branch decided it was timely to submit a petition to the Board for its consideration.

#### Analysis of Town Signage Ordinances and State Statute

Following is a summary about the key aspects of the relevant Town ordinances (Sections 93.02 – 93.05), which are attached as Exhibit No. 6

- Type of Law: Administrative and Civil
- Purposes: To define specific permissible signs and to establish the criteria for the size, type and location of these signs

- Remedy for Violation: Prompt removal of sign
- Criteria for Signage: Specific sizes and locations for each type of permissible sign, e.g., real estate signs are limited to one sign per lot, not to exceed six square feet in size, not to contain any electrical component and not to be lighted in any way, set back 20 feet from the nearest edge of the pavement of the public road, not higher than four feet above the ground, etc.
- Permissible Signs: Construction Signs, Ideological Signs, Invisible Fencing Signs, On-Premises Commercial Signs, Political Signs, Real Estate Signs, and Security Company Signs
- No Trespassing Signage: Not included in the list of permissible signs in Section 93.04
- Content Regulation: No regulation of content intended by the ordinance
- Aesthetic Consideration: Permissible signs cannot unreasonably interfere with aesthetic quality and must be consistent with the nature of a primarily residential community

Following is a summary of the key aspects of North Carolina Statute NC GS 14-159.13, a copy of which is included in Exhibit No. 5:

- Type of Law: Criminal
- Purpose: To define the criteria for second degree trespass
- Remedy for Violation of Criminal Trespass: Fine and/or Imprisonment
- Criteria for Signage Necessary to Enforce Prosecution for Trespass: For a second degree trespass to be effective, notice must be "posted, in a manner reasonably likely to come to the attention of intruders, with notice not to enter the premises". Otherwise, there are no criteria other than this vague one, although one commentator has indicated that a "sign must . . . be visible from the road, including making sure the lettering is plain and cleanly visible"
- Permissible Signs: No trespassing signs are not named explicitly
- Content Location: The notice content must be posted, in a manner reasonably likely to come to the attention of intruders
- Aesthetic Considerations: There are no aesthetic considerations mentioned in the statute

As is obvious from the discussion above, these two legal provisions are very different, with different purposes. Section 93.03 indicates that the list of signs is exclusive, i.e., "no sign of any kind, including posters, advertisements, billboards, announcements and like, shall be erected by any person in any district zoned R-I, R-2, R-3, R-4 or R-5 unless the sign, type, size and intended location comply with this subchapter or unless prior approval of the sign type, size, and intended location are first obtained from the Town Manager or Board of Commissioners".

Section 93.02 of the Town ordinances also indicates that signage must not unreasonably interfere with aesthetic quality. However, the four signs installed by Bartsch have vibrant red lettering and backgrounds, hardly what one would consider esthetically appropriate in Biltmore Forest with its green forests and foliage. The signs are intended, we believe, to blare their message at us and annoy us on a

constant basis. Would any of the Commissioners like to have these signs staring at you every day, all day and find them to have reasonable aesthetic quality? Their offensive colors and placement, facing only our property, in the middle of the property border, are unreasonable, do not adhere to the Town's aesthetic quality standards, and provide more reasons to have them promptly removed. In contrast, the two, tasteful green and yellow signs at 22 Browntown Road are more consistent with the aesthetic quality of Biltmore Forest, matching the colors of the fire hydrants in the neighborhood, and they reside very close to the street. Attached as Exhibit No. 7 is a copy of one of such signs. The signs are also posted in compliance with the State statute to give notice to the public.

NC GS 14-159.13 indicates that, for a person to be subject to a second degree trespass, any notrespassing sign must be "posted, in a manner reasonably likely to come to the attention of intruders, with notice not to enter the premises". However, none of the four offending no-trespassing signs is reasonably likely to come to the attention of an intruder because they are pointed directly towards our house and are not visible from the street. As noted above, we have never trespassed on the Bartsch property and have no intention of doing so in the future.

#### **Recommendations**

The Town needs to add no-trespassing signs to its ordinances by amending the relevant sections to the code which was just amended less than a year ago. The amended code should be consistent with the State statute regarding notice that is a condition of meeting second degree trespass, but local law can improve on State law. In this case, to be consistent with the other signage ordinance provisions, an amendment must include more criteria, i.e., be explicit regarding type, size and location, such as a location by the road where the sign would be visible from the road, not on the border between two properties where they are hidden from everyone but one homeowner and pointed away from the street, and making sure the lettering is plain and clearly visible which would reasonably likely to come to the attention of intruders and not unreasonably interfering with aesthetic quality, i.e., they should match the green and yellow signs at 22 Browntown Road and be consistent with the green and yellow fire hydrants. Attached as Exhibit No. 1 is a copy of a proposed amended version of Sections 93.02-93.05.

After amending its ordinance to be consistent with State law and its other sign requirements or even now due to the violation by the no-trespassing signs of the aesthetic quality provision of Section 93.02, the Town must apply the remedy in Section 93.03 to the four signs: "Any sign erected in violation of this subchapter shall be promptly removed." Or, the signs could be replaced with appropriate signage. The Town has responsibility for enforcing its ordinances and should then direct Perry Bartsch Jr. to promptly remove his signs and green posts which have been installed for about four months. The Town could let Bartsch know that he could install no-trespassing signs, but they would have to be consistent with the amended ordinance. Attached as Exhibit No. 8 is a proposed letter for this purpose. If Bartsch refuses to remove the offending signs and replace them with compliant signs, the Town must, under Article 8, NC GS Section 160A-175, secure injunctions and abate orders to further insure compliance.

We look forward to further discussions with you, and we hope that you will follow our recommendations.

#### Exhibits:

Exhibit No. 1: Proposed Amended Ordinance Sections 93.02-93.05

- Exhibit No. 2: Bartsch No-Trespassing Sign
- Exhibit No. 3: Bartsch No-Trespassing Sign
- Exhibit No. 4: NC State Statute Article 22A
- Exhibit No. 5: NC State Statute Article 22B
- Exhibit No. 6: Town of Biltmore Forest Ordinance Sections 93.02-93.05
- Exhibit No. 7: 22 Browntown Road No-Trespassing Sign
- Exhibit No. 8: Letter to the Bartschs

#### § 93.02 POLICY REGARDING SIGNS.

This subchapter sets forth the Town of Biltmore Forest policies and regulations regarding the size, type and location of signs. The subchapter is intended to regulate size, type and location of signs to ensure that signs are not located in the public right of way, do not pose a threat to public safety, do not unreasonably interfere with aesthetic quality and are consistent with the nature of a primarily residential community. It is not the intent of this subchapter to regulate the content of signs or to limit the right of free speech.

(Ord. 2021-02, passed 2-9-2021)

#### § 93.03 SIGNS AND POSTERS GENERALLY.

Except as set forth herein, no sign of any kind, including posters, advertisements, billboards, announcements and like, shall be erected by any person in any district zoned R-I, R-2, R-3, R-4 or R-5 unless the sign, type, size and intended location comply with this subchapter or unless prior approval of the sign type, size, and intended location are first obtained from the Town Manager or Board of Commissioners. Any sign erected in violation of this subchapter shall be promptly removed.

(2013 Code, § 15-2) (Ord. 2021-02, passed 2-9-2021)

#### § 93.04 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CONSTRUCTION SIGNS.** Signs identifying a company or individual constructing or renovating a house or building on property in the town.

**IDEOLOGICAL SIGNS.** Signs advocating support for a particular system of ideas and ideals which may form the basis of an economic or political theory and policy.

*INVISIBLE FENCING SIGNS.* Signs advertising the location of underground (invisible) fencing on a property or the location of installed underground utilities.

**ON-PREMISES COMMERCIAL SIGNS.** Signs located on or attached to buildings in the zoning districts in the town where commercial businesses are allowed.

**POLITICAL SIGNS.** Signs advocating support for a particular candidate for political office or political party.

**REAL ESTATE SIGNS.** Signs advertising the sale or lease of residential or commercial real property.

**SECURITY COMPANY SIGNS.** Signs indicating that a security system has been installed on a property.

**NO-TRESPASSING SIGNS**. Signs providing notice in a manner reasonably likely to come to the attention of intruders, with notice not to enter the premises of another

(Ord. 2021-02, passed 2-9-2021)

#### § 93.05 SIGNS AND POSTERS; REQUIREMENTS.

(A) *Real estate signs.* No person, either as owner or real estate agent, shall post any sign except as follows:

(1) One sign per lot, not to exceed six square feet in size, not to contain any electrical component and not to be lighted in any way;

(2) If the sign is posted by a real estate agency, the wording shall be limited appropriately to indicate that the property is for sale or rent, the name and telephone number of the agency, the listing firm website, and the multiple listing service number, texting code, or individual website assigned to the home for sale;

(3) If the sign is posted by an owner, the wording shall be limited to appropriately indicate that the property is for sale or rent, the name of seller, if so desired, a telephone number, and individual website assigned to the home for sale;

(4) Wording shall be the same on both sides of the sign if both sides are exposed to the roadway;

(5) The sign shall be set back at least 20 feet from the nearest edge of the pavement of the public road on which the house fronts or faces and in no event shall the sign be located within any public road right-of-way;

(6) No portion of the sign shall extend more than four feet above the ground;

(7) The sign shall be removed no later than three days after the closing of the sale of the property;

(8) If a sign is for commercial use in the R-4 or R-5 Residential Zoning District and does not comply with the limitations herein, application must be made to the Board of Commissioners for approval; and

(9) The owner of a residential lot and the real estate agent placing a real estate sign on the residential lot shall each be responsible for any violation of this section.

(B) *Construction signs.* Signs advertising the name of an individual or company constructing or renovating a house or other building on a property are allowed as follows:

(1) On any residential lot on which construction or renovation has begun, neither the general contractor nor the owner of the residential lot shall post or permit to be posted more than one sign in addition to any sign required by law to be posted (e.g. building permits and the like);

(2) The general contractor may place one sign on the residential lot on which construction or renovation has begun, which sign shall not exceed six square feet in size and shall be limited in wording to the street number or address of the property and the name, address, and telephone number of the general contractor. The general contractor's sign shall also be subject to divisions (A)(1), (A)(4), (A)(5), and (A)(6) above. The general contractor's sign shall be removed from the property not later than

three days from the completion of construction by the general contractor or occupancy by the owner of the property being constructed, whichever comes first; and

(3) The sign shall be set back at least 20 feet from the nearest edge of pavement of the public road on which the house fronts or faces. The sign shall not be posted in the public right-of-way.

(4) The owner of the residential lot and the general contractor shall be responsible for any violation of this section.

(C) *Political and ideological signs.* Political and ideological signs are allowed on private property provided the signs are erected as follows:

(1) Each sign shall not exceed four square feet in size and not contain any electrical component or lighted in any way;

(2) The sign shall not be located within the town owned public right-of-way or on town property and must be set back at least 20 feet from the nearest edge of the paved road on which the house fronts or faces and shall not encroach on the public right-of-way;

(3) No portion of the sign is to extend more than four feet above the ground;

(4) A sign located on private property requires the owner's approval;

(5) Up to four political signs may be placed on private property beginning 30 days before the beginning of early voting for a primary or general election. Political signs should be removed within five days after the primary, general or special election; and

(6) Political and ideological signs are not allowed on town property.

(D) *Security company signs.* Security company signs are allowed on private property as follows:

(1) On any residential or business property with a commercial security system, up to two signs bearing the name of the security company and appropriate contact information, may be posted;

(2) The signs shall not exceed one square foot in size, not contain electrical components and not be lighted in any way;

(3) The signs shall be set back at least ten feet from the nearest edge of the pavement on the public road or street.

(E) *Invisible fencing signs.* Signs indicating the presence and location of underground fencing are allowed as follows:

(1) On any property with an underground "invisible fence," up to two signs noting the presence of the invisible fence and the name of the company providing the fence may be posted on the property;

(2) The signs shall not exceed one square foot in size, not contain electrical components and not be lighted in any way;

(3) The signs shall be set back at least ten feet from the nearest edge of the pavement on the public road or street.

(4) For the purpose of this subchapter, temporary flags indicating the installation of underground (invisible) fencing shall be removed no later than 45 days after installation.

(F) *Flags for underground utilities.* Flags for underground utilities are allowed on a temporary basis to indicate the presence and location of underground utilities.

(G) Signs located in the R-4 and R-5 Zoning Districts.

(1) On any lot occupied by a business in the R-4 and R-5 Districts, on-premises signs are allowed provided the following definitions and permit requirements are met.

(2) For the purpose of this division (G), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ATTACHED SIGN.** Any sign attached to, applied on, or supported by the front wall or wall facing street of a building.

**CLEARANCE.** The vertical distance from the established finished grade to the lowest edge of the sign.

**DEVELOPMENT IDENTIFICATION SIGN.** A sign bearing only the name of the multiple tenant development.

*ERECT.* To construct, build, raise, assemble, install, place, replace, locate, affix, attach, display, alter, use, create, paint, draw, illuminate, or in any other way bring into being or establish.

**FREESTANDING POLE SIGN.** A sign which is permanently affixed to the ground by a pole or other structure and which is not part of the building.

*GRADE.* The lowest point at which a sign is attached to the ground.

*GROUND SIGN.* A freestanding sign flush to the ground and not elevated upon poles or stanchions and not attached to the building.

*HEIGHT.* The vertical distance between the highest part of the sign or its supporting structure, whichever is highest, and the base of the sign at grade.

**INTERNALLY ILLUMINATED.** Any sign designed to provide artificial light either through exposed lighting on the sign face or through transparent or translucent material, from a light source within the sign.

*LOT.* A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use.

**MULTIPLE TENANT DEVELOPMENT.** A development in which there exists a number of individual or separate activities and in which there are appurtenant-shared facilities (such as parking areas).

**NONCONFORMING SIGN.** Any sign which was allowed when erected or displayed but which does not conform with the standards of this subchapter, and any

sign which was not allowed but was nonetheless impermissibly created or displayed before the effective date of this subchapter and any amendments thereto.

**ON-PREMISES SIGN.** Any sign used for the purpose of displaying, advertising, identifying, or directing attention to a business, products, operations, or services sold or offered on the lots where the sign is located.

**SETBACK.** The horizontal distance between the leading face of the curb of a street and the closest point of a sign or sign structure on such lot. Where there is not a curb, the measurement shall be made from the edge of the pavement.

*SIGN.* Any words, lettering, numerals, parts of letters or numerals, figure, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is known, made of any material, except live vegetation, including any surface, fabric, or other material background structure designed to carry such devices, as are used to designate or attract attention.

*SIGN STRUCTURE.* Any structure which supports, has supported or is capable of supporting a sign.

SINGLE TENANT. A single business establishment, activity or use.

**WALL SIGN.** Any sign painted or attached flat against and parceled to the exterior wall or surface of a building or other structure and/or which projects from the wall or surface.

- (3) On-premises single-tenant signs.
  - (a) Allowed within the R-4 and R-5 Zoning District may be either:
    - 1. Freestanding. Pole or ground; or
    - 2. Attached. Wall.

(b) Two business identification signs are allowed per lot, only one of which shall be a freestanding or ground sign. For freestanding or attached signs, the total allowable area per face of selected sign(s) shall not exceed 40 square feet per face, with two faces per freestanding or ground sign allowed. In the event the freestanding sign is less than the 40 square feet per face allowed, the size of the attached sign erected may be increased by that difference. Signs may be internally or externally illuminated.

(c) Additionally, the following requirements must be met based on the type of sign selected:

1. If freestanding pole or ground, then the sign shall be a maximum of eight feet in height with a minimum setback of ten feet; and

2. If wall, then the maximum projection from a wall shall be six inches.

(4) On-premises multiple-tenant development signs.

(a) On-premises multiple-tenant development signs allowed within the R-4 and R-5 Zoning District may be either:

- 1. Freestanding; pole or ground attached; or
- 2. Wall.

(b) For a multiple-tenant development, the development itself is allowed one identification sign. For a freestanding sign, the total allowable area per face of selected sign shall not exceed 60 square feet with two faces per freestanding or ground sign allowed. If freestanding pole or ground, the sign shall be a maximum of 20 feet in height and minimum setback of 15 feet. Individual tenants within the development shall be allowed one attached wall sign not to exceed ten square feet, and at the due discretion of the Board of Commissioners, not more than two, not to exceed ten square feet. The maximum projection from a wall shall be six inches.

(H) The owner of the business establishment erecting a sign shall be responsible for any violation of this subchapter.

(I) Any sign removed by the town for violation of division (A) or (B) of this section shall be disposed of by the town within five days from the date the sign is removed from the residential lot unless the residential lot owner, real estate agent or general contractor, as the case may be, claims said sign within the five-day period.

#### (J) No-Trespassing Sign

(a) The sign must be visible from and pointed towards the road, including making sure the lettering is plain and cleanly visible.

(b) The sign must not exceed two square feet in size, not contain electrical components and not be lighted in any way.

(c) The sign must be set back at least ten feet from the nearest edge of the pavement on the public road or street.and in no event shall the sign be located within any public road right-of-way.

(d) The sign must be aesthetically consistent with the colors nearby.

(e) There must be no more than two signs per property lot.

(f) No portion of the sign shall extend more than four feet above the ground.

(g) The owner of a residential lot and the real estate agent placing a real estate sign on the residential lot shall each be responsible for any violation of this section.

(2013 Code, § 15-2) (Ord. passed 9-15-1987; Ord. passed 12-8-1990; Ord. passed 9-2002; Ord. 2021-02, passed 2-9-2021)





#### Article 22A.

Trespassing upon "Posted" Property to Hunt, Fish, Trap, or Remove Pine Needles/Straw.

### § 14-159.6. Trespass for purposes of hunting, etc., without written consent a misdemeanor; defense.

(a) Any person who willfully goes on the land, waters, ponds, or a legally established waterfowl blind of another that has been posted in accordance with the provisions of G.S. 14-159.7, to hunt, fish or trap without written permission of the landowner, lessee, or his agent shall be guilty of a Class 2 misdemeanor. Written permission shall be carried on one's person, signed by the landowner, lessee, or agent, and dated within the last 12 months. The written permission shall be displayed upon request of any law enforcement officer of the Wildlife Resources Commission, sheriff or deputy sheriff, or other law enforcement officer with general subject matter jurisdiction. A person shall have written permission for purposes of this section if a landowner, lessee, or agent has granted permission to a club to hunt, fish, or trap on the land and the person is carrying both a current membership card demonstrating the person's membership in the club and a copy of written permission granted to the club that complies with the requirements of this section.

(b) Any person who willfully goes on the land of another that has been posted in accordance with the provisions of G.S. 14-159.7(1), to rake or remove pine needles or pine straw without the written consent of the owner or his agent shall be guilty of a Class 1 misdemeanor.

(c) It is an affirmative defense to a prosecution under subsection (a) or (b) of this section that the person had in fact obtained prior permission of the owner, lessee, or agent as required by those subsections but did not have on his or her person valid written permission at the time of citation or arrest. (1949, c. 887, s. 1; 1953, c. 1226; 1965, c. 1134; 1975, c. 280, s. 1; 1979, c. 830, s. 11; 1991, c. 435, s. 4; 1993, c. 539, s. 99; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(z); 2011-231, s. 1.)

#### § 14-159.7. Regulations as to posting of property.

For purposes of posting property under G.S. 14-159.7, the owner or lessee of the property may use either of the following methods:

- (1) The owner or lessee of the property may place notices, signs, or posters on the property. The notices, signs or posters shall measure not less than 120 square inches and shall be conspicuously posted on private lands not more than 200 yards apart close to and along the boundaries. At least one such notice, sign, or poster shall be posted on each side of such land, and one at each corner thereof, provided that said corner can be reasonably ascertained. For the purpose of prohibiting fishing, or the taking of fish by any means, in any stream, lake, or pond, it shall only be necessary that the signs, notices, or posters be posted along the stream or shoreline of a pond or lake at intervals of not more than 200 yards apart.
- (2) The owner or lessee of the property may place identifying purple paint marks on trees or posts around the area to be posted. Each paint mark shall be a vertical line of at least eight inches in length, and the bottom of the mark shall be no less than three feet nor more than five feet from the base of the tree or post. The paint marks shall be placed no more than 100 yards apart and shall be readily visible to any person approaching the property. For the purpose of prohibiting fishing, or the taking of fish by any means, in any stream, lake, or pond, it shall

only be necessary that the paint marks be placed along the stream or shoreline of a pond or lake at intervals of not more than 100 yards apart. (1949, c. 887, s. 2; 1953, c. 1226; 1965, c. 923; 1975, c. 280, ss. 2, 3; 1979, c. 830, s. 11; 2011-231, s. 2.)

### § 14-159.8. Mutilation, etc., of "posted" signs; posting signs without consent of owner or agent.

Any person who shall mutilate, destroy or take down any "posted," "no hunting" or similar notice, sign or poster on the lands, waters, or legally established waterfowl blind of another, or who shall post such sign or poster on the lands, waters or legally established waterfowl blind of another, without the consent of the owner or his agent, shall be deemed guilty of a Class 3 misdemeanor and only punished by a fine of not more than one hundred dollars (\$100.00). (1949, c. 887, s. 3; 1953, c. 1226; 1969, c. 51; 1979, c. 830, s. 11; 1993, c. 539, s. 100; 1994, Ex. Sess., c. 24, s. 14(c).)

### § 14-159.9. Entrance on navigable waters, etc., for purpose of fishing, hunting or trapping not prohibited.

Nothing in this Article shall be construed to prohibit the entrance of any person upon navigable waters and the bays and sounds adjoining such waters for the purpose of fishing, hunting or trapping. (1949, c. 887, s. 4; 1953, c. 1226; 1979, c. 830, s. 11.)

#### § 14-159.10. Enforcement of Article.

This Article may be enforced by sheriffs or deputy sheriffs, law enforcement officers of the Wildlife Resources Commission, and other peace officers with general subject matter jurisdiction. (1979, c. 830, s. 11; 2011-231, s. 3.)

#### Article 22B.

#### First and Second Degree Trespass.

#### § 14-159.11. Definition.

As used in this Article, "building" means any structure or part of a structure, other than a conveyance, enclosed so as to permit reasonable entry only through a door and roofed to protect it from the elements. (1987, c. 700, s. 1.)

#### § 14-159.12. First degree trespass.

(a) Offense. – A person commits the offense of first degree trespass if, without authorization, he enters or remains:

- (1) On premises of another so enclosed or secured as to demonstrate clearly an intent to keep out intruders;
- (2) In a building of another; or
- (3) On the lands of the Eastern Band of Cherokee Indians after the person has been excluded by a resolution passed by the Eastern Band of Cherokee Indian Tribal Council.

(b) Except as otherwise provided in subsection (c), (d), or (f) of this section, first degree trespass is a Class 2 misdemeanor.

(c) Except as otherwise provided in subsection (d) of this section, a violation of subsection (a) of this section is a Class A1 misdemeanor if all of the following circumstances exist:

- (1) The offense is committed on the premises of any of the following:
  - a. A facility that is owned or operated by an electric power supplier as defined in G.S. 62-133.8(a)(3) and that is either an electric generation facility, a transmission substation, a transmission switching structure, or a control center used to manage transmission operations or electrical power generating at multiple plant locations.
  - b. Any facility used or available for use in the collection, treatment, testing, storing, pumping, or distribution of water for a public water system.
  - c. Any facility, including any liquefied natural gas storage facility or propane air facility, that is owned or operated by a natural gas local distribution company, natural gas pipeline carrier operating under a certificate of public convenience and necessity from the Utilities Commission, municipal corporation operating a municipally owned gas distribution system, or regional natural gas district organized and operated pursuant to Article 28 of Chapter 160A of the General Statutes used for transmission, distribution, measurement, testing, regulating, compression, control, or storage of natural gas.
  - d. Any facility used or operated for agricultural activities, as that term is defined in G.S. 106-581.1.
- (2) The person actually entered a building, or it was necessary for the person to climb over, go under, or otherwise surmount a fence or other barrier to reach the facility.

(d) If, in addition to the circumstances set out in subsection (c) of this section, the violation also includes any of the following elements, then the offense is a Class H felony:

- (1) The offense is committed with the intent to disrupt the normal operation of any of the facilities described in subdivision (1) of subsection (c) of this section.
- (2) The offense involves an act that places either the offender or others on the premises at risk of serious bodily injury.

(e) As used in subsections (c) and (d) of this section, the term "facility" shall mean a building or other infrastructure.

(f) A violation of subsection (a) of this section is a Class I felony and shall include a fine of not less than one thousand dollars (\$1,000) for each violation, if any of the following circumstances exist:

- (1) The offense occurs on real property where the person has reentered after having previously been removed pursuant to the execution of a valid order or writ for possession.
- (2) The offense occurs under color of title where the person has knowingly created or provided materially false evidence of an ownership or possessory interest.
- (3) The offense is the person's second or subsequent violation of subdivision (a)(3) of this section. (1987, c. 700, s. 1; 1993, c. 539, s. 101; 1994, Ex. Sess., c. 24, s. 14(c); 2012-168, s. 1; 2014-103, s. 10(a); 2016-26, s. 1; 2018-66, s. 1.)

#### § 14-159.13. Second degree trespass.

(a) Offense. – A person commits the offense of second degree trespass if, without authorization, he enters or remains on premises of another:

- (1) After he has been notified not to enter or remain there by the owner, by a person in charge of the premises, by a lawful occupant, or by another authorized person; or
- (2) That are posted, in a manner reasonably likely to come to the attention of intruders, with notice not to enter the premises.

(b) Classification. – Second degree trespass is a Class 3 misdemeanor. (1987, c. 700, s. 1; 1993, c. 539, s. 102; 1994, Ex. Sess., c. 24, s. 14(c).)

#### § 14-159.14. Lesser included offenses.

The offenses created by this act shall constitute lesser included offenses of breaking or entering as provided in G.S. 14-54 and G.S. 14-56. (1987, c. 700, s. 1.)

#### **§§ 14-159.15 through 14-159.19. Reserved for future codification purposes.**

#### § 93.02 POLICY REGARDING SIGNS.

This subchapter sets forth the Town of Biltmore Forest policies and regulations regarding the size, type and location of signs. <u>The subchapter is intended to regulate size, type and location of signs to ensure that signs</u> are not located in the public right of way, do not pose a threat to public safety, <u>do not unreasonably interfere with aesthetic quality and are consistent with the nature of a primarily residential community. It is not the intent of this subchapter to regulate the content of signs or to limit the right of free speech.</u>

(Ord. 2021-02, passed 2-9-2021)

#### § 93.03 SIGNS AND POSTERS GENERALLY.

Except as set forth herein, no sign of any kind, including posters, advertisements, billboards, announcements and like, shall be erected by any person in any district zoned R-I, R-2, R-3, R-4 or R-5 unless the sign, type, size and intended location comply with this subchapter or unless prior approval of the sign type, size, and intended location are first obtained from the Town Manager or Board of Commissioners. Any sign erected in violation of this subchapter shall be promptly removed.

(2013 Code, § 15-2) (Ord. 2021-02, passed 2-9-2021)

#### § 93.04 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CONSTRUCTION SIGNS.** Signs identifying a company or individual constructing or renovating a house or building on property in the town.

**IDEOLOGICAL SIGNS.** Signs advocating support for a particular system of ideas and ideals which may form the basis of an economic or political theory and policy.

*INVISIBLE FENCING SIGNS.* Signs advertising the location of underground (invisible) fencing on a property or the location of installed underground utilities.

**ON-PREMISES COMMERCIAL SIGNS.** Signs located on or attached to buildings in the zoning districts in the town where commercial businesses are allowed.

**POLITICAL SIGNS.** Signs advocating support for a particular candidate for political office or political party.

**REAL ESTATE SIGNS.** Signs advertising the sale or lease of residential or commercial real property.

**SECURITY COMPANY SIGNS.** Signs indicating that a security system has been installed on a property.

(Ord. 2021-02, passed 2-9-2021)

#### § 93.05 SIGNS AND POSTERS; REQUIREMENTS.

(A) *Real estate signs.* No person, either as owner or real estate agent, shall post any sign except as follows:

(1) One sign per lot, not to exceed six square feet in size, not to contain any electrical component and not to be lighted in any way;

(2) If the sign is posted by a real estate agency, the wording shall be limited appropriately to indicate that the property is for sale or rent, the name and telephone number of the agency, the listing firm website, and the multiple listing service number, texting code, or individual website assigned to the home for sale;

(3) If the sign is posted by an owner, the wording shall be limited to appropriately indicate that the property is for sale or rent, the name of seller, if so desired, a telephone number, and individual website assigned to the home for sale;

(4) Wording shall be the same on both sides of the sign if both sides are exposed to the roadway;

(5) The sign shall be set back at least 20 feet from the nearest edge of the pavement of the public road on which the house fronts or faces and in no event shall the sign be located within any public road right-of-way;

(6) No portion of the sign shall extend more than four feet above the ground;

(7) The sign shall be removed no later than three days after the closing of the sale of the property;

(8) If a sign is for commercial use in the R-4 or R-5 Residential Zoning District and does not comply with the limitations herein, application must be made to the Board of Commissioners for approval; and

(9) The owner of a residential lot and the real estate agent placing a real estate sign on the residential lot shall each be responsible for any violation of this section.

(B) *Construction signs.* Signs advertising the name of an individual or company constructing or renovating a house or other building on a property are allowed as follows:

(1) On any residential lot on which construction or renovation has begun, neither the general contractor nor the owner of the residential lot shall post or permit to be posted more than one sign in addition to any sign required by law to be posted (e.g. building permits and the like);

(2) The general contractor may place one sign on the residential lot on which construction or renovation has begun, which sign shall not exceed six square feet in size and shall be limited in wording to the street number or address of the property and the name, address, and telephone number of the general contractor. The general contractor's sign shall also be subject to divisions (A)(1), (A)(4), (A)(5), and (A)(6) above. The general contractor's sign shall be removed from the property not later than three days from the completion of construction by the general contractor or occupancy by the owner of the property being constructed, whichever comes first; and

(3) The sign shall be set back at least 20 feet from the nearest edge of pavement of the public road on which the house fronts or faces. The sign shall not be posted in the public right-of-way.

(4) The owner of the residential lot and the general contractor shall be responsible for any violation of this section.

(C) *Political and ideological signs.* Political and ideological signs are allowed on private property provided the signs are erected as follows:

(1) Each sign shall not exceed four square feet in size and not contain any electrical component or lighted in any way;

(2) The sign shall not be located within the town owned public right-of-way or on town property and must be set back at least 20 feet from the nearest edge of the paved road on which the house fronts or faces and shall not encroach on the public right-of-way;

(3) No portion of the sign is to extend more than four feet above the ground;

(4) A sign located on private property requires the owner's approval;

(5) Up to four political signs may be placed on private property beginning 30 days before the beginning of early voting for a primary or general election. Political signs should be removed within five days after the primary, general or special election; and

(6) Political and ideological signs are not allowed on town property.

(D) *Security company signs.* Security company signs are allowed on private property as follows:

(1) On any residential or business property with a commercial security system, up to two signs bearing the name of the security company and appropriate contact information, may be posted;

(2) The signs shall not exceed one square foot in size, not contain electrical components and not be lighted in any way;

(3) The signs shall be set back at least ten feet from the nearest edge of the pavement on the public road or street.

(E) *Invisible fencing signs.* Signs indicating the presence and location of underground fencing are allowed as follows:

(1) On any property with an underground "invisible fence," up to two signs noting the presence of the invisible fence and the name of the company providing the fence may be posted on the property;

(2) The signs shall not exceed one square foot in size, not contain electrical components and not be lighted in any way;

(3) The signs shall be set back at least ten feet from the nearest edge of the pavement on the public road or street.

(4) For the purpose of this subchapter, temporary flags indicating the installation of underground (invisible) fencing shall be removed no later than 45 days after installation.

(F) *Flags for underground utilities.* Flags for underground utilities are allowed on a temporary basis to indicate the presence and location of underground utilities.

(G) Signs located in the R-4 and R-5 Zoning Districts.

(1) On any lot occupied by a business in the R-4 and R-5 Districts, on-premises signs are allowed provided the following definitions and permit requirements are met.

(2) For the purpose of this division (G), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ATTACHED SIGN.** Any sign attached to, applied on, or supported by the front wall or wall facing street of a building.

**CLEARANCE.** The vertical distance from the established finished grade to the lowest edge of the sign.

**DEVELOPMENT IDENTIFICATION SIGN.** A sign bearing only the name of the multiple tenant development.

*ERECT.* To construct, build, raise, assemble, install, place, replace, locate, affix, attach, display, alter, use, create, paint, draw, illuminate, or in any other way bring into being or establish.

**FREESTANDING POLE SIGN.** A sign which is permanently affixed to the ground by a pole or other structure and which is not part of the building.

*GRADE.* The lowest point at which a sign is attached to the ground.

*GROUND SIGN.* A freestanding sign flush to the ground and not elevated upon poles or stanchions and not attached to the building.

*HEIGHT.* The vertical distance between the highest part of the sign or its supporting structure, whichever is highest, and the base of the sign at grade.

**INTERNALLY ILLUMINATED.** Any sign designed to provide artificial light either through exposed lighting on the sign face or through transparent or translucent material, from a light source within the sign.

*LOT.* A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use.

**MULTIPLE TENANT DEVELOPMENT.** A development in which there exists a number of individual or separate activities and in which there are appurtenant-shared facilities (such as parking areas).

**NONCONFORMING SIGN.** Any sign which was allowed when erected or displayed but which does not conform with the standards of this subchapter, and any sign which was not allowed but was nonetheless impermissibly created or displayed before the effective date of this subchapter and any amendments thereto.

**ON-PREMISES SIGN.** Any sign used for the purpose of displaying, advertising, identifying, or directing attention to a business, products, operations, or services sold or offered on the lots where the sign is located.

**SETBACK.** The horizontal distance between the leading face of the curb of a street and the closest point of a sign or sign structure on such lot. Where there is not a curb, the measurement shall be made from the edge of the pavement.

*SIGN.* Any words, lettering, numerals, parts of letters or numerals, figure, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is known, made of any material, except live vegetation, including any surface, fabric, or other material background structure designed to carry such devices, as are used to designate or attract attention.

*SIGN STRUCTURE.* Any structure which supports, has supported or is capable of supporting a sign.

SINGLE TENANT. A single business establishment, activity or use.

**WALL SIGN.** Any sign painted or attached flat against and parceled to the exterior wall or surface of a building or other structure and/or which projects from the wall or surface.

- (3) On-premises single-tenant signs.
  - (a) Allowed within the R-4 and R-5 Zoning District may be either:
    - 1. Freestanding. Pole or ground; or
    - 2. Attached. Wall.

(b) Two business identification signs are allowed per lot, only one of which shall be a freestanding or ground sign. For freestanding or attached signs, the total allowable area per face of selected sign(s) shall not exceed 40 square feet per face, with two faces per freestanding or ground sign allowed. In the event the freestanding sign is less than the 40 square feet per face allowed, the size of the attached sign erected may be increased by that difference. Signs may be internally or externally illuminated.

(c) Additionally, the following requirements must be met based on the type of sign selected:

1. If freestanding pole or ground, then the sign shall be a maximum of eight feet in height with a minimum setback of ten feet; and

2. If wall, then the maximum projection from a wall shall be six inches.

(4) On-premises multiple-tenant development signs.

(a) On-premises multiple-tenant development signs allowed within the R-4 and R-5 Zoning District may be either:

- 1. Freestanding; pole or ground attached; or
- 2. Wall.

(b) For a multiple-tenant development, the development itself is allowed one identification sign. For a freestanding sign, the total allowable area per face of selected sign shall not exceed 60 square feet with two faces per freestanding or ground sign allowed. If freestanding pole or ground, the sign shall be a maximum of 20 feet in height and minimum setback of 15 feet. Individual tenants within the development shall be allowed one attached wall sign not to exceed ten square feet, and at the due discretion of the Board of Commissioners, not more than two, not to exceed ten square feet. The maximum projection from a wall shall be six inches.

(H) The owner of the business establishment erecting a sign shall be responsible for any violation of this subchapter.

(I) Any sign removed by the town for violation of division (A) or (B) of this section shall be disposed of by the town within five days from the date the sign is removed from the residential lot unless the residential lot owner, real estate agent or general contractor, as the case may be, claims said sign within the five-day period.

(2013 Code, § 15-2) (Ord. passed 9-15-1987; Ord. passed 12-8-1990; Ord. passed 9--2002; Ord. 2021-02, passed 2-9-2021)

# NO TRESPASSING

00,00

### THIS PROPERTY IS PROTECTED BY VIDEO SURVEILLANCE

TRESPASSERS WILL BE PROSECUTED

#### Town of Biltmore Forest 355 Vanderbilt Rd. Town of Biltmore Forest, NC 28803

November 29, 2021

Perry Bartsch Jr. and Joanne Bartsch 8 Deerfield Road Town of Biltmore Forest, NC 28803

#### Re: Removal of No-Trespassing Signs

Dear Mr. and Ms. Bartsch:

As you know from our discussion with you on October 12, 2021, the Town of Biltmore Forest (the "Town") has received a complaint from Richard Wyde and Angela Branch about the four, red and white no-trespassing signs that you installed on the property border between your home and their home.

North Carolina State law includes a criminal statute that establishes notice, which could include placement of a no-trespassing sign, as a condition for second degree trespass. This law states that such notice must be posted in a manner reasonably likely to come to the attention of intruders, with notice not to enter the premises and that, as a practical matter, requires notice be provided close to the street or a park entrance. It is my understanding that Mr. Wyde and Ms. Branch have never trespassed on your property and have no intent to do so, and therefore are unlikely to be intruders entering your premises.

The Town has also recently amended an administrative, civil ordinance which explicitly lists permissible signage, which establishes specific standards for size, location and type of each of them, and which provides the civil remedy of prompt removal for non-compliance. This ordinance does not include no-trespassing signs.

As a result of the omission of any no-trespassing signs in its ordinance, the Town is out of compliance with State law and must immediately amend its ordinance to add no-trespassing signs, with specific standards comparable to those of other signs in its ordinance and consistent with but more explicit than the State statute regarding the notice, which should be close to the street or a park entrance to attract public attention, and be reasonably likely to inform potential intruders instead of between borders of property owners and pointed directly at their yards. The Town ordinance already provides that any permissible signs also cannot unreasonably interfere with aesthetic quality and must be consistent with the nature of a primarily residential community, such as the two yellow and green no-trespassing signs at the driveway entrances at 22 Browntown Road.

So, as a result of the lack of no-trespassing signs in its ordinance and inconsistency with State law, the Town wants you to know that it believes (1) the four signs are out of compliance with State law, and (2) as soon as it amends the ordinance, the Town will order the prompt removal or replacement of the no-trespassing signs in accordance with the amended ordinance and State law. If you refuse to remove the signs or to replace them with compliant signs, the Town will, under

Article 8, NC GS Section 160A-175, secure injunctions and abate orders to further insure compliance.

Please let me know if you want to discuss this letter.

Sincerely,

Jonathan Kanipe, Town Manager

Cc: Billy Clarke, JD Richard Wyde, JD Angela Branch, JD

### Joanne and Perry Bartsch Jr 8 Deerfield Rd Asheville, N.C. 28803

December 9, 2021

Mr. Jonathan Kanipe, Town Manager Town of Biltmore Forest 355 Vanderbilt Rd Town of Biltmore Forest, N.C. 28803

Dear Mr. Kanipe,

Please see enclosed ten copies of our documents for your use, with the Town's Attorney and our Biltmore Forest Commissioners. Joanne and I do not pretend to be attorneys. However, we think it important to present information that has led up to the current situations and to correct certain statements in Mr. Rich Wyde's epistle (undated).

We appreciate consideration afforded us to protect our property and ourselves under current NC law and Biltmore Forest ordinances. These situations have caused both Joanne and I consternation, worry and anxiety.

Let us know if you and, the Town's Attorney and/or Commissioners have any questions.

Again, thank you.

Engl. Bas

Perry Bartsch Jr. PWBjr/p

### Ways in which the Bar tschs have gone out of their way to be good neighbors. Reasons why "No Trespassing" signs must remain and remain visible. **Other Notes.**

- 1. Stopped at Wyde house up on seeing moving truck. Introduced self and said, "Happy to meet you. We should get together." (Wyde's response; "I'm Rich Wyde and I'm an attorney").
- 2. Wyde asked BF for permission to install fence for dogs. Bartschs agreed. Neighbor on other side, refused.
- 3. Bartschs endured near constant barking of Wyde dogs whenever on their own property and/or driveway and said nothing. (Wyde informed Bartsch that neigh bor to rear complained to BF Police re near constant barking dogs.)
- 4. Wyde <u>HAS</u> trespassed on **Bar**tsch property and has been observed using Roundup on Bartsch property. Any comment to the contrary is not true. This is the First <u>REASON</u> why "No Trespassing" signs must remain and remain visible, as allowed under NC Statute.
- 5. Shared in mulch delivery and split cost. Bartschs trying to be neighborly AND trying to keep boundary between homes aesthetically pleasing.
- 6. Bartschs invited Wyde to join for evening meal. (No takers). 7. When oak tree fell at 4 Deerfield Rd., it snapped the power pole at the NE corner of Bartsch/Wyde property. All neighbors were without power. Utility wanted to set new pole immediately next to old pole to the North, on Wyde Property, to expedite repairs. Wyde refused utility permission because he wanted to be reimbursed for what might be damage to one (1) medium Rhododendron bush (See picture of bust at "arrow" in Section 8, "Repair to Electrical Post"). Such that, all neighbors, incl Wyde,

could have electrical power restored, Bartsch allowed Utility to use their driveway, climb/damage their trees, etc. Bartsch stayed up with Utility workers during the night to try to keep their spirits

- up, because the job was made much harder by Wyde refusal. 8. Without discussion of any kind, Wyde denuded ground cover done to hard pack – first pass, resulting in storm water damage to Bartsch Property and BF's Set Back (First Denudification done on a Sunday morning).

9. Bartschs paid for registered Surveyor out of their own pocket. Again, without discussion or regard to neighborliness or aesthetic considerations or damage to Bartsch's property, Wyde made use of survey paid by Bartschs to denude ground cover down to hard pack – second pass - up to imaginary Property Line (See Note re Concept of Property Line at Section 4, "Registered Surveyor"). Again, this removal of ground cover resulted in more storm water damage to Bartsch Property and BF Set Back. This

second pass also happened while Bartschs were out of town. 11. Here is the Second <u>REASON</u> why "No Trespassing" signs must remain and remain visible, as allowed under NC Statute. See section 9 attached ("To prevent gun carrying individuals from entering Bartsch property"). Namely, on Saturday, October 23rd, 2021 at 11:07 and individual entered our property carrying an exposed Glock 19 pistol. The individual made sure Bartsch saw this gun. Bartsch told the individual to leave. He refused. Perry Bartsch yelled to his wife, Joanne, "He has a gun! Look out!" The Bartschs were greatly disturbed by this event and called the BF Police, asking them to come by. BF Police Officers Merritt and Clark visited and explained that the best way to keep people with firearms off one's premises is to post "No Trespassing" signs. If these signs are in place, then the individual must leave or he/she may be charged with criminal trespassing. See <u>BF Police Report</u> attached. In this tragic time of much gun violence, this is a very important RIGHT of NC homeowners, to protect themselves.

## **INTRODUCTION to attached Sets of Pictures:**

- 1. Property Line between Bartsch and Wyde prior to denudification of ground cover by Wyde
- 2. Wyde determines boundary with piece of string and denudes all ground cover – first pass – down to hard pack soil
- 3. Storm water run off after Wyde denudes ground cover first
- pass damaging Bartsch Property and BF's Set Back 4. Bartsch hires registered land surveyor at his own expense to
- 5. Wyde denudes all remaining ground cover second pass down to hard pack soil.
- 6. Storm water damage to Bartsch Property after Wyde's second
- 7. No trespassing signs Bartsch lawfully posts, Rhododendron
- Wyde plants in front of them, ideological sign Wyde posts 8. Repair to Electrical Post caused by down tree at corner of Bartsch/Wyde Property. Utility wants to set second post of Wyde's Property. Wyde refuses unless he is compensated for one Rhododendron. Bartschs allows Utility to use their driveway and their trees so all neighbors, incl Wyde, may have electrical service.

9. SECOND (and important reason) why Bartsch No Trespassing Signs must remain and remain visible. To prevent gun carrying and other unauthorized individuals from entering property. This is a matter of Safety.

10. Quotation

### PROPERTY LINE BETWEEN BARTSCH AND WYDE PRIOR TO DENUDIFICATION OF GROUND COVER **BY WYDE**

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# WYDE SETS STRING HIMSELF AND DENUDES GROUND COVER – FIRST PASS











# STORM WATER RUN OFF AFTER WYDE SETS STRING HIMSELF AND DENUDES GROUND COVER – FIRST PASS













# BARTSCH HIRES AT HIS OWN EXPENSE REGISTERED LAND SURVEYOR

NOTE: Surveyor, Thomas Mulloy, reinforces the concept of what a survey of a property line really is: an imaginary line between two points that has no width and "does not exist." Therefore, Mulloy always advises all landowners stay several inches back from this imaginary line. Wyde's denudification of ground covers ignores this concept.

# Thomas Mulloy P.L.S. Land Surveying

# WYDE DENUDES GROUND COVER – SECOND PASS, POST SURVEY







## STORM WATER DAMAGE AFTER WYDE DENUDES GROUND COVER – SECOND PASS













# BARTSCH LAWFULLY POSTS 4 NO TRESPASSING SIGNS PER NC STUTUTE 14-159.13

WYDE PLANTS RODODENDREN IN FRONT OF SIGNS

WYDE POSTS IDEOLOGICAL SIGN







OAK TREE FALLS AT 4 DEERDFIELD ROAD, SNAPPING POWER POLE BETWEEN BARTSCH AND WYDE

WYDE REFUSES TO ALLOW UTILITY TO REPLACE POLE UNLES HE IS REIMBURSED FOR ONE RHODODENDRON

BARTSCHS ALLOW UTILITY TO USE THEIR DRIVEWAY AND SWING SECOND, NEW POLE THROUGH THEIR TREES SO ALL NEIGHBOR, INCL WYDE, MAY HAVE POWER RESTORED











# SECOND REASON WHY NO TRESSPASSING SIGNS MUST REMAIN AND REMAIN VISIBLE

- 1. See attached Police Report of armed man who would not leave BARTSCH property
- 2. BARTSCH is informed by Biltmore Forest Police that only recourse is to "Post Property" to prevent armed or unarmed intruders from entering
- 3. See photograph of gun
- 4. See NC Statute 14-159.13



## INCIDENT/INVESTIGATION REPORT

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Incident Number 2021-007051

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CONTINUATION PAGE						
1. AGENCY Biltmore Forest Police Department	2. ORI NC0110300	3. CONTINUATION TO:	4. INCIDENT FILE NO.			
Narrative		SUPPLEMENTARY INV.	2021-007051			
she advised that the student is h	appy and we can contac	t her or the student anytime	The student			
was at a friends house when Merri	t and Clark spoke to	Sherman				
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icer Name / ID	Officer Signature					
t Kenneth Merritt - 840			Page 3			
			of <u>3</u>			

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#### § 14-159.13. Second degree trespass.

(a) Offense. – A person commits the offense of second degree trespass if, without authorization, he enters or remains on premises of another:

- (1) After he has been notified not to enter or remain there by the owner, by a person in charge of the premises, by a lawful occupant, or by another authorized person; or
- (2) That are posted, in a manner reasonably likely to come to the attention of intruders, with notice not to enter the premises.

(b) Classification. – Second degree trespass is a Class 3 misdemeanor. (1987, c. 700, s. 1; 1993, c. 539, s. 102; 1994, Ex. Sess., c. 24, s. 14(c).)

## QUOTATION

1



### BOARD OF COMMISSIONERS MEETING STAFF MEMORANDUM December 14, 2021

Agenda Item F-2



Petition regarding Zoning Ordinance Amendment for Fences

**Background** 

Mr. Chuck Hutchison, 8 Westwood Road, has provided the attached petition for the Board related to fences within Biltmore Forest. I have attached the Town's fence, gate, and walls ordinance for the Board's review relative to this petition.

November 22, 2021

- To: Jonathan Kanipe Town Manager Town of Biltmore Forest
- Petitioner: Chuck Hutchison 8 Westwood Rd. Biltmore Forest 828-450-6044 chuckhutchison72@gmail.com

Subject: Ordinance Change

I am requesting that City Ordinance 153.049 - Fence, Gate and Wall Regulations - be changed to permit fencing on all sides of residential property.

Justification for this change is to prevent wildlife from accessing and destroying plant material. This change will assure residents that their time, investment and efforts to enhance the beauty and value of their property and therefore our community, will be protected.

Respectfully Submitted,

Churck Butchism

**Chuck Hutchison** 

#### § 153.049 FENCE, GATE AND WALL REGULATIONS.

The Board of Commissioners for the Town of Biltmore Forest that the following amendments to the Zoning Ordinance and subsequent regulations be placed on fence, gate, and wall construction and replacement as of the effective date of this section.

(A) New fences, gates or walls may be approved by the Board of Adjustment as a special use, so long as the gate, fence or wall meets the following requirements.

(1) The fence, gate, or wall is constructed entirely within the rear yard, is not located in any side or rear yard setbacks, and is constructed of materials deemed acceptable in § 153.049(D).

(2) Mature vegetation or other buffering sufficient to screen the fence, gate, or wall from neighboring properties shall be required to the extent necessary.

(B) A driveway gate and supporting columns may be approved by the Board of Adjustment as a special use so long as it meets the following requirements:

(1) The driveway gate and columns shall not be located in the front or side yard setback of a property.

(2) The driveway gate shall not be more than eight feet in height.

(3) The driveway gate must provide access for emergency services and first responders. This may be done via a lockbox code, strobe or siren activation switch, or other method with demonstrated reliability.

(4) The driveway gate must open wide enough to provide for ingress and egress of emergency vehicles. The minimum acceptable standard is for the gate access to be 14 feet wide with a 14 foot minimum height clearance.

(C) Replacement of existing fences, gates, and walls shall be approved by the Board of Adjustment as a special use so long as the replacement fence is constructed of materials deemed acceptable in § 153.049(D) and meets the requirements below. A special use permit application to replace an existing fence, gate, or wall shall include a photograph of the existing fence or wall, specify the type of fence, gate, or wall, include a map or sketch depicting the height and length of the fence, gate, or wall and state whether or not the fence, gate, or wall is located within any setbacks.

(1) Existing chain link fences or gates shall not be replaced with new chain link fences or gates.

(2) Existing fences, gates, or walls in the front yard shall not be replaced. No new fences, gates, or walls shall be allowed in the front yard.

(3) Repair of more than half of an existing fence, gate, or wall shall be considered a replacement and shall be subject to this section.

(D) Acceptable materials and standards for fences and walls/maintenance. The following materials and standards for fences and walls shall be deemed acceptable.

(1) Wooden fencing or gates shall be of natural color or painted in a manner compatible with the residence and the lot.

(2) Non-wooden fencing and gates shall be black, dark green or brown and shall blend with surrounding trees or vegetation.

(3) No new chain link fencing or gates shall be allowed.

(4) Fences shall not exceed six feet in height except that fences designed to prevent deer or other wildlife from entering the property shall not exceed ten feet in height. Deer fences shall be constructed in accordance with North Carolina Wildlife Resources Commission standards for "Permanent Woven Wire Fencing" and "Permanent Solid-Wire Fencing." Copies of these standards are available at the Town Hall or at the following web address (https://www.nxwildlife.ord/Learning/Species/Mammals/Whitetail-Deer/Fencing-to-Exclude-Deer#42041180-permanent-fencing).

(5) Wall s should be constructed of stone or similar material, and shall be compatible with the construction materials of the house located on the same property.

(6) When a fence, gate or wall is not properly maintained or fails to comply with condition(s) imposed by the Board of Adjustment, the town shall required the property owner to repair the fence, gate, or wall, or, remove the fence, gate, or wall at the property owner's expense. If the property owner fails to repair or remove the fence, gate, or wall, the town may remove the fence, gate, or wall and recover the cost of removal, including the cost of disposal, if any, from the property owner.

(Ord. passed 2-11-2020)